

because of minority or misrepresentation of age; to the Committee on Naval Affairs.

By Mr. BLAND: Resolution (H. Res. 504) for the consideration of House Joint Resolution 685; to the Committee on Rules.

By Mr. THOMAS of Texas: Joint resolution (H. J. Res. 692) authorizing the President to invite the States of the Union and foreign countries to participate in the Oil World Exposition at Houston, Tex., to be held April 24 to 29, 1939, inclusive; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BLAND: A bill (H. R. 10696) granting an increase of pension to Mary W. Osterhaus; to the Committee on Pensions.

By Mr. COLE of New York: A bill (H. R. 10697) granting an increase of pension to Forrest E. Andrews; to the Committee on Pensions.

By Mr. MURDOCK of Arizona: A bill (H. R. 10698) to correct the Navy Department records and discharge certificate of Austin Chauncey Repp; to the Committee on Naval Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

5164. By Mr. CURLEY: Petition of the United Federal Workers of America, urging enactment of the Federal Workers' Minimum Wage Act; to the Committee on the Civil Service.

5165. Also, petition of the International Union of United Furniture Workers of America, urging enactment of the wage-hour bill; to the Committee on Labor.

5166. Also, petition of 40,000 employees of the Consolidated Edison Co., of New York, urging enactment of the wage-hour bill; to the Committee on Labor.

5167. Also, petition of 1,500 members of Joint Council 13, United Shoe Workers of America, urging enactment of the wage and hour bill; to the Committee on Labor.

5168. Also, petition of the New York Regional Council, United Federal Workers of America, urging enactment of the Federal Appeal Act for civil-service employment and the Five Day Week Act for Federal employees; to the Committee on the Civil Service.

5169. By Mr. LUTHER A. JOHNSON: Memorial of Charles A. Salmon, J. E. Mattison, L. D. Brotherton, W. W. Newberry, E. W. Brautigan, O. P. Price, and Macon Mattison, members of the board of trustees of the Jewett Independent School District, Jewett, Tex., favoring House bill 10340; to the Committee on Education.

5170. Also, memorial of Miss A. Louise Dietrich, general secretary, Texas Graduate Nurses' Association, favoring House bill 10241; to the Committee on Ways and Means.

5171. By Mr. KENNEDY of New York: Petition of the Blind Industrial Workers Association of New York State, Inc., Brooklyn, N. Y., urging the passage of Senate bill 2819; to the Committee on Interstate and Foreign Commerce.

5172. Also, petition of the New York League of Women Voters, New York City, favoring passage of the Ramspeck postmasters bill as passed by the House; to the Committee on the Civil Service.

5173. Also, petition of Abraham & Straus, Inc., Brooklyn, N. Y., urging the enactment of House bill 9209, introduced by Congressman Tower; to the Committee on Ways and Means.

5174. Also, petition of the United Paper Workers, Long Island Union, 292, New York City, urging enactment of the wage-hour bill; to the Committee on Labor.

5175. Also, petition of the Newspaper Guild of New York, urging enactment of the wage-hour bill, etc.; to the Committee on Labor.

5176. Also, petition of the Transport Workers Union of Greater New York, urging enactment of the wage-hour bill; to the Committee on Labor.

5177. Also, petition of the United Optical Workers Union, New York City, urging enactment of the wage-hour bill; to the Committee on Labor.

5178. Also, petition of the United Electrical, Radio, and Machine Workers of America, Machine and Instrument Local 1227, Long Island City, N. Y., concerning recovery program, wage and hour legislation, housing and slum clearance, relief and jobs for the unemployed, and aid to the small-business man; to the Committee on Labor.

5179. By Mr. MERRITT: Petition of State, County, and Municipal Workers of America, Local No. 40, New York City, N. Y., urging enactment of the wage and hour bill; to the Committee on Labor.

5180. Also, resolution of the Allied Veterans' Employment Committee of Queens County, N. Y., requesting that the Representatives from New York look into the conditions existing at the Brooklyn Navy Yard; that the yardstick method of classification in use at the yard is unfair to the many who wish to work there; that men who have been laid off have been approached by the Workers' Alliance and asked to join with the promise they will be restored to their jobs; to the Committee on Labor.

5181. Also, resolution of the Quartermen and Leadingmen's Association, Navy Yard, N. Y., that the 30-day suspension of leadingmen and quartermen in connection with the irregularities in vouching for applicants for employment in the New York Navy Yard be canceled or that the penalty be modified; to the Committee on Labor.

SENATE

THURSDAY, MAY 19, 1938

(Legislative day of Wednesday, April 20, 1938)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Wednesday, May 18, 1938, was dispensed with, and the Journal was approved.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H. R. 4852) to provide for the creation of the Saratoga National Historical Park in the State of New York, and for other purposes.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. 8008) to provide for the purchase of public lands for home and other sites.

The message further announced that the House had passed the bill (S. 3845) to create a civil aeronautics authority, and to promote the development and safety and to provide for the regulation of civil aeronautics, with amendments, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

S. 51. An act for the relief of the Fred G. Clark Co.;

S. 750. An act to grant relief to persons erroneously convicted in courts of the United States;

S. 842. An act to provide for an investigation and report of losses resulting from the campaign for the eradication of the Mediterranean fruitfly by the Department of Agriculture;

S. 1242. An act for the relief of Stanley A. Jerman, receiver for A. J. Peters Co., Inc.;

S. 1700. An act for the relief of William A. Patterson, Albert E. Rust, Louis Pfeiffer; and John L. Nesbitt and Cora B. Geller, as executors under the will of James T. Bentley;

S. 3290. An act to impose additional duties upon the United States Public Health Service in connection with the investigation and control of the venereal diseases;

S. 3691. An act to provide for the appointment of additional judges for certain United States district courts, circuit courts of appeals, and certain courts of the United States for the District of Columbia;

H. R. 5030. An act granting pensions and increases of pensions to certain soldiers, sailors, and nurses of the War with Spain, the Philippine Insurrection, or the China Relief Expedition, and for other purposes; and

H. R. 7187. An act to amend section 12B of the Federal Reserve Act, as amended.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8837) making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, and offices, for the fiscal year ending June 30, 1939, and for other purposes.

THE AIR-MAIL TRIBUTE TO MEMORY OF THE LATE HONORABLE
WILLIAM GRAVES SHARP

Mr. BULKLEY. Mr. President, I ask unanimous consent to submit a concurrent resolution and to have it considered at this time.

The VICE PRESIDENT. Is there objection?

There being no objection, the concurrent resolution (S. Con. Res. 35) was considered, and unanimously agreed to as follows:

Whereas the late Honorable William Graves Sharp, with prophetic vision, introduced in the House of Representatives on April 21, 1913, the first bill which provided for the carrying of the mail by airplane; and

Whereas air-mail service now reaches every part of the Nation and has been extended to lands across the sea: Therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States hereby honors and pays tribute to the memory of the Honorable William Graves Sharp for having introduced and supported the first bill providing for Air Mail Service.

ISSUANCE OF TREASURY BONDS AND NOTES

Mr. HARRISON. I ask unanimous consent that the Senate proceed to the consideration of House bill 10535, to amend the Second Liberty Bond Act, as amended. A similar Senate bill has been reported by the Finance Committee, and is now on the Senate Calendar, being Order of Business No. 1833.

The VICE PRESIDENT. Is there objection?

There being no objection, the Senate proceeded to consider the bill (H. R. 10535) to amend the Second Liberty Bond Act, as amended.

Mr. VANDENBERG. Mr. President, may I ask the Senator from Mississippi whether the amendment proposed to be offered by my colleague [Mr. Brown of Michigan] has been abandoned?

Mr. HARRISON. I may say to the Senator that I thought probably there would be a roll call asked for immediately, and I merely wanted the bill to be pending. We have agreed upon an amendment which will be offered later.

CALL OF THE ROLL

Mr. LEWIS. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Bailey	Berry	Borah
Andrews	Bankhead	Bilbo	Bridges
Austin	Barkley	Bone	Brown, Mich.

Bulkley	Gillette	Loneragan	Radcliffe
Bulow	Glass	Lundeen	Russell
Burke	Green	McAdoo	Schwartz
Byrd	Guffey	McCarran	Schwellenbach
Byrnes	Hale	McGill	Sheppard
Capper	Harrison	McKellar	Shipstead
Caraway	Hatch	McNary	Smathers
Chavez	Hayden	Maloney	Smith
Clark	Herring	Miller	Thomas, Utah
Copeland	Hill	Minton	Townsend
Davis	Hitchcock	Murray	Truman
Dieterich	Holt	Neely	Tydings
Donahay	Hughes	Norris	Vandenberg
Duffy	Johnson, Calif.	Nye	Van Nuys
Ellender	Johnson, Colo.	O'Mahoney	Wagner
Frazier	King	Overton	Walsh
George	La Follette	Pepper	Wheeler
Gerry	Lewis	Pittman	White
Gibson	Logan	Pope	

Mr. LEWIS. I announce that the Senator from Arizona [Mr. ASHURST] and the Senator from Oregon [Mr. REAMES] are detained from the Senate because of illness.

The Senator from Oklahoma [Mr. LEE] is absent because of illness in his family.

The Senator from New Hampshire [Mr. BROWN], the Senator from Texas [Mr. CONNALLY], the Senator from New Jersey [Mr. MILTON], the Senator from North Carolina [Mr. REYNOLDS], and the Senator from Oklahoma [Mr. THOMAS] are detained on important public business.

Mr. AUSTIN. I announce that the Senator from Massachusetts [Mr. LONG] is necessarily absent on official business.

The VICE PRESIDENT. Eighty-seven Senators have answered to their names. A quorum is present.

ORDINANCES OF PUBLIC SERVICE COMMISSION OF PUERTO RICO

The VICE PRESIDENT laid before the Senate a letter from the Acting Secretary of the Interior, transmitting, pursuant to law, ordinances adopted by the Public Service Commission of Puerto Rico, which, with the accompanying papers, was referred to the Committee on Territories and Insular Affairs.

PETITIONS

The VICE PRESIDENT laid before the Senate a resolution adopted by the Philadelphia (Pa.) Housing Authority, favoring the enactment of the bill (S. 3911) to amend the United States Housing Act of 1937, which was referred to the Committee on Education and Labor.

Mr. TYDINGS presented a petition of sundry citizens of Frederick, Md., praying for the enactment of legislation to prohibit the advertising of alcoholic liquors by the press and radio, which was referred to the Committee on the Judiciary.

Mr. WAGNER presented resolutions adopted by the Philadelphia Housing Authority and the Stark Tri-County Building Trades Council, which were referred to the Committee on Education and Labor and ordered to be printed in the RECORD, as follows:

I, W. R. Tucker, Jr., secretary of the Philadelphia Housing Authority, do hereby certify that at a regularly called meeting of the Authority held May 16, 1938, at which a quorum was present, the following actions were had:

"Whereas an amendment to the United States Housing Act of 1937—S. 3911—to aid municipal authorities is now before the Congress of the United States; and

"Whereas the amendment contemplates the issue of bonds by U. S. H. A. in the amount of \$1,000,000,000, instead of \$500,000,000 now allowed, permission to lend the entire \$500,000,000 provided by the original act immediately instead of delaying loans on the last \$200,000,000 until July 1, 1939; and

"Whereas the present earmarking of funds to the Philadelphia Housing Authority by the U. S. H. A. is \$22,000,000, which will supply less than 10 percent of the immediate and urgent need for low-rent housing in Philadelphia; and

"Whereas there is similar need for low-rent housing throughout the Commonwealth of Pennsylvania, which cannot be remedied by the present funds available to this State: Now, therefore, be it

Resolved, That the Philadelphia Housing Authority be, and it hereby does, express its emphatic approval of the amendment; and be it further

Resolved, That the secretary be, and he is hereby, instructed to forward certified copies of these preambles and resolutions to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives, Senator ROBERT F. WAGNER, Congressman HENRY B. STEAGALL, the chairman of the Senate Committee on Education and Labor, the members of the Senate Committee on Education and Labor, the members of

the House Committee on Banking and Currency, and to the Members of Congress from Pennsylvania."

In witness whereof I have hereunto set my hand and caused the official seal of the Authority to be affixed this 16th day of May 1938.
[SEAL]

W. R. TUCKER, Jr., Secretary.

Whereas as a result of inequalities that have existed in the W. P. A. as regards various crafts and trades, where these projects are completed by so-called handy men, it has impaired the efficiency and the progress of successful construction: Therefore be it

Resolved, That all W. P. A. appropriations shall provide the protective features for the building trades that are provided in the P. W. A., and all persons who are not skilled in the work to which they have been assigned should immediately be reclassified and assigned to work for which they are qualified.

Also, all W. P. A. work to be let by competitive bids where possible, and a small fee basis on projects impossible of lump-sum awards, for use of regularly established construction organizations; thus saving immense amounts of money and rebuilding citizenship.

STARK TRI-COUNTY BUILDING TRADES COUNCIL,

H. EWALD, President.

E. C. SAGER, Secretary.

NATIONAL LABOR RELATIONS ACT—PETITION

Mr. BURKE presented a petition of several citizens, being representatives of independent labor, which was referred to the Committee on Education and Labor and ordered to be printed in the RECORD, with the signatures, as follows:

MAY 3, 1938.

A petition to the Congress of the United States of America

We have come to Washington to tell you, our representatives in Congress, that the great body of wage earners of the country demand relief from the intolerable injustices of the Wagner Act. Labor wants relief now, before this Congress adjourns.

Workers are waking up to realize that this so-called Magna Carta of labor is a hangman's noose. It has discredited the whole labor movement and endangered the very principle of collective bargaining, which we want upheld.

The Wagner Act, as administered by the partisan members and subordinates of the National Labor Relations Board, has done more, in our opinion, to dig this pit of depression and bury labor in it than anything else.

Now the Nation faces more uncertainty, which must continue as long as this one-sided law remains. The Labor Board, overtaken by the Supreme Court's ruling that administrative agencies must give all citizens "fair and open hearings," admits that subordinates whom Congress never heard of make the Labor Board's decisions. And we know, from bitter experiences, that the decisions are reached without such "fair and open hearings."

Some of us have appealed to the Board and our petitions have been denied a hearing. The Board told us to appeal to the courts, knowing full well that its discrimination against all independent labor organizations has so crippled them as to make it almost impossible to finance an appeal. Still the members of independent labor unions are taxed, along with the rest, to support a Board which uses its power to persecute and destroy independent labor.

The surest way to restore confidence to business and hope to workers and jobs to the unemployed is to cut the abuses out of the Wagner Act and abolish the present Labor Board. And we mean now.

Amend the Wagner Act and build on a new, solid foundation. But assure us that a decent amendment will be made without unnecessary delay. Could not a joint committee of Congress study the British Trades Disputes Act and other progressive labor laws and substitute a sensible and just bill? In the meantime, and before you go home to face your constituents, we urge you to rid us of the octopus that is strangling both industry and labor.

By "labor" we mean the 85 percent of the gainfully employed who, like ourselves, are members of independent unions or no unions at all, as well as the 14 percent, more or less, who are members of Mr. Green's A. F. of L. or Mr. Lewis' C. I. O.

The National Labor Relations Act was not written for these 99 percent, but for the remaining 1 percent (or less) who are the officers and paid organizers of the A. F. of L. and the C. I. O. Of course, they and their paid lobbyists and press agents will tell you and the public that any legislator who dares touch one line of their sacred Wagner Act will die like a political dog. We are here to tell you that it isn't so. We know what the rank and file are thinking and saying—on the assembly lines, at the punch presses, in the foundries, and in the lengthening line of the unemployed. And please don't forget that the votes of the inarticulate rank and file of workers will far outnumber the rest.

The real wage earners are sick of the Wagner Act and its "kangaroo court," the N. L. R. B., with its biased examiners, its bulldozing prosecutors, and its swarm of press agents. The rank and file know the Wagner Act has cost them hundreds of millions in employment lost through this depression and through strikes. They know that many of the strikes were never authorized by a majority and were for no other purpose than to increase the power of Mr. Lewis or Mr. Green.

The workers want a labor law that will protect labor and the public and be fair to employers. It should reserve the right to strike and preserve the right to work. It should protect the right to organize, to join, or not to join any kind of a union. It should protect the worker from coercion by employer, fellow worker, and organizer.

Labor unions should be made responsible. We don't believe compulsory incorporation will do it; let incorporation be optional, as it is in business. But make every labor organization register with a public authority, and don't let that public authority become the partisan of any particular form of unionism or of any special class of workers. Compel every labor organization to file regularly with such authority the names and addresses of its officers, the number of paid and unpaid members, and show exactly what becomes of all the money collected.

Require labor organizers to meet certain standards of character in order to obtain a license to do business, just as insurance and real-estate agents and securities salesmen must do. This would help keep out the racketeers.

Let the law define legal and illegal strikes, and "unfair labor practices" of employers, workers, and unions. Outlaw sit-downs, and make strike lawlessness no less serious an offense than any other lawlessness.

Put a stiff penalty on misrepresentations by either side in a labor dispute. Protect workers in their right to be told the truth about their employers and their right to know what their leaders are asking them to strike for. False representations that cause workers to join a union, pay dues, strike and lose their wages and perhaps their jobs, should be just as much a criminal offense as false representations in the selling of securities, insurance, or advertising.

All reasonable requirements that make workers and their organizations responsible, lift labor up to a self-respecting position in society. Labor wants to be on a plane of equality with the employer. No lopsided, un-American law, written like the Wagner Act as undisguised class legislation, can ever establish labor's equality before the law. Equality before the law is all that any citizen in a democracy is entitled to ask, and that is all we want for American workmen and women.

The Wagner Act's limited class of special beneficiaries—the professional labor organizers—will warn you that any amendment of the Wagner Act means a step backward for labor. We say: A step backward, at the edge of a precipice, is a step in the right direction.

We charge the National Labor Relations Board with the following unfair and un-American practices:

1. Biased tactics in the administration of hearings conducted before their hand-picked trial examiners.

a. By the unscrupulous use of subpoena.

b. By the acceptance of one-sided testimony without substantial proof or verification.

c. By manipulation of the right to challenge witnesses' testimony.

2. By assessing prohibitive costs for hearings so that the small employer or independent labor union cannot afford to defend itself or enter proper testimony or defense.

3. By hiring individuals of questionable beliefs in the American form of government as employees of the Board.

4. By condoning and encouraging strikes, illegal trespass, violence, coercion, intimidation, labor racketeering, perjury, blackmail, and disrespect for law and order.

5. By discouraging private enterprise, personal initiative, respect for legitimate courts of law, reemployment of labor in industry, and independent thinking in the right to work or not to work.

6. By their findings and orders, guaranteeing immunity from loss of jobs for illegal acts committed by workers while on strike or previous to a strike.

7. By various methods, controlling employee elections so that the Board-approved collective bargaining agency may be certified.

8. By acting as an enlistment and dues-collecting agency, thus forcing workers to join the Board's favored union.

9. By collusion with certain labor unions.

10. By discouraging cordial relations between employer and employee.

11. By discriminating against independent unions by insisting upon a code of behavior in employer-employee relations that are ridiculous and impossible of fulfillment.

12. By fomenting class warfare.

13. And by discouraging the normal flow of capital for new business enterprises and retarding the ultimate recovery from the present recession.

We further petition and recommend to the Congress that the following changes be made in amending the National Labor Relations Act so that it may be an equitable and American act, equally fair to all who labor and to our employers on whom we depend for our jobs and for the ability to live by the American standard of living:

THE REMEDY

1. Amend that section of the act setting up the National Labor Relations Board making it compulsory that the personnel be composed of—

a. A member who understands and is sympathetic toward those who labor.

b. A member who understands the problems of the employer of labor, and

c. A member who has the general public viewpoint.

2. Make it compulsory that all appointees of the Board (regional directors, lawyers, etc.), shall be required to take a civil service or other examination to determine their fairmindedness and belief in the American form of government and their ability to act in fairness and justice to all concerned.

3. Trial examiners shall be appointed by the United States Circuit Court of Appeals for service in their respective districts.

4. Make it compulsory that all labor unions or groups who are approved bargaining agencies shall register with the Board periodically, giving the names of officers, membership, national affiliations (if any) and an annual accounting of all funds received and expended. All national or affiliated groups of more than one collective bargaining agency shall give the names of their officers, their affiliated locals, and an annual accounting of all funds received and expended and the salaries of their officers.

5. Make it unlawful to engage in the participation of strikes which affect interstate commerce in any manner whatsoever, wherein said participants have no interest other than pecuniary.

6. Define a union (whether national or local) and give independent unions equal rights with national unions.

7. Outlaw all illegal acts by either employer or employees.

8. Make it possible for either employer or employees to enter complaints of unfair or illegal labor practices.

9. Give to minority groups certain collective bargaining rights for their members.

10. Decisions of the Board shall be argued and enforced by the Federal District Court instead of the circuit court of appeals.

11. Coordinate the National Labor Relations Board with the Labor Department so that they may work in harmony and for the benefit of those concerned.

We, the undersigned, representatives of independent labor submit this declaration and petition to Congress, with the respectful demand of immediate action.

(Signed) ARTHUR C. WICK.
JOHN L. SMITH.
REGINALD BOATE.
P. W. HORNER.
CLYDE E. SHALES.
ELMER PETERSON.
CHAS. R. SMITH.
ROY MAYS.

REPORTS OF COMMITTEES

Mr. BULKLEY, from the Committee on Banking and Currency, to which was referred the bill (S. 3754) to amend sections 729 and 743 of the Code of Laws of the District of Columbia, reported it without amendment and submitted a report (No. 1802) thereon.

Mr. WALSH, from the Committee on Naval Affairs, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

S. 3708. A bill for the relief of Jack Lecel Haas (Rept. No. 1805);

S. 3891. A bill to provide for the reimbursement of certain enlisted men of the Navy for the value of personal effects lost in a fire at the naval air station, Hampton Roads, Va., May 15, 1936 (Rept. No. 1806); and

H. R. 9611. A bill to permit sales of surplus scrap materials of the Navy to certain institutions of learning (Rept. No. 1803).

He also, from the Committee on Naval Affairs, to which was referred the bill (S. 3805) to adjust the lineal positions on the Navy list of certain officers of the Supply Corps of the United States Navy, reported it with an amendment and submitted a report (No. 1804) thereon.

Mr. WHEELER, from the Committee on Interstate Commerce, to which was referred the resolution (S. Res. 273) continuing Senate Resolution No. 71 (74th Cong.), authorizing an investigation of interstate railroads and affiliates with respect to financing, reorganizations, mergers, and certain other matters, reported it without amendment and submitted a report (No. 1809) thereon.

He also (for Mr. THOMAS of Oklahoma), from the Committee on Indian Affairs, to which was referred the bill (S. 4009) to reimburse the Eastern and Western Cherokees for funds erroneously charged against them, and for other purposes, reported it without amendment and submitted a report (No. 1807) thereon.

Mr. McADOO, from the Committee on Patents, to which was referred the bill (S. 3969) to amend section 23 of the

act of March 4, 1909, relating to copyrights, reported it with amendments and submitted a report (No. 1808) thereon.

Mr. THOMAS of Utah, from the Committee on Education and Labor, to which was referred the bill (S. 2165) to amend the act entitled "An act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes," reported it with an amendment and submitted a report (No. 1810) thereon.

Mr. BERRY, from the Committee on Military Affairs, to which was referred the joint resolution (H. J. Res. 667) to authorize an appropriation to aid in defraying the expenses of the observance of the seventy-fifth anniversary of the Battles of Chickamauga, Ga., Lookout Mountain, Tenn., and Missionary Ridge, Tenn.; and commemorate the one hundredth anniversary of the removal from Tennessee of the Cherokee Indians, at Chattanooga, Tenn., and at Chickamauga, Ga., from September 18 to 24, 1938, inclusive; and for other purposes, reported it without amendment and submitted a report (No. 1811) thereon.

CONTINUATION OF INVESTIGATION OF SURVEY OF INDIAN CONDITIONS

Mr. BYRNES. From the Committee to Audit and Control the Contingent Expenses of the Senate I report back favorably, with an amendment, Senate Resolution 258, and ask unanimous consent for its present consideration.

Mr. KING. Mr. President, does the resolution provide for the expenditure of any money?

Mr. BYRNES. It involves no expenditure of money. The resolution simply authorizes the Committee on Indian Affairs to continue an investigation. It does not provide any funds.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution (S. Res. 258) submitted by Mr. THOMAS of Oklahoma on March 31, 1938.

The amendment of the Committee to Audit and Control the Contingent Expenses of the Senate was, in the last line of the resolution, before the word "Congress", to strike out the words "and succeeding", and at the end of the resolution to strike out "Congress" and insert "Congress", so as to make the resolution read:

Resolved, That Senate Resolution 79, agreed to February 2, 1928, and continued by subsequent resolutions, authorizing the Committee on Indian Affairs, or any subcommittee thereof, to make a general survey of the condition of the Indians in the United States, hereby is continued in full force and effect during the Seventy-sixth Congress.

The amendment was agreed to.

The resolution as amended was agreed to.

NATIONAL ECONOMIC COUNCIL

Mr. BULKLEY, from the Committee on Manufactures, reported a resolution (S. Res. 281), which, under the rule, was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Committee on Manufactures, authorized by Resolution No. 114, Seventy-fourth Congress, to investigate the desirability of establishing a National Economic Council, hereby is authorized, in pursuance of such investigation, to expend from the contingent fund of the Senate \$10,000 in addition to the amounts heretofore authorized for such purpose.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. HATCH:

A bill (S. 4050) to repeal section 2 of the act of June 16, 1936, authorizing the appointment of an additional district judge for the eastern district of Pennsylvania; to the Committee on the Judiciary.

By Mr. WAGNER:

A bill (S. 4051) to simplify the accounts of the Treasurer of the United States, and for other purposes; to the Committee on Banking and Currency.

By Mr. BERRY:

A bill (S. 4052) to provide for the establishment of the Joseph W. Byrns Memorial Center at Springfield, Tenn.; to the Committee on the Library.

By Mr. COPELAND:

A bill (S. 4053) to amend the Merchant Marine Act, 1936, and for other purposes; to the Committee on Commerce.

By Mr. WALSH:

A joint resolution (S. J. Res. 297) to provide for the completion of the Navy and Marine Memorial; to the Committee on Naval Affairs.

JOINT CONGRESSIONAL COMMITTEE ON TAXATION OF GOVERNMENTAL SECURITIES AND SALARIES

Mr. BROWN of Michigan submitted the following concurrent resolution (S. Con. Res. 36), which was referred to the Committee on Finance:

Senate Concurrent Resolution 36

Resolved by the Senate (the House of Representatives concurring). That there is hereby established a joint congressional committee (hereinafter referred to as the "joint committee"). The joint committee shall be composed of three Members of the Senate who are members of the Committee on Finance and three Members of the Senate who are members of the Committee on the Judiciary, to be appointed by the President of the Senate, and three Members of the House of Representatives who are members of the Committee on Ways and Means and three Members of the House of Representatives who are members of the Committee on the Judiciary, to be appointed by the Speaker of the House of Representatives. A vacancy in the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee, and shall be filled in the same manner as the original appointment. The joint committee shall select a chairman from among its members.

SEC. 2. It shall be the duty of the joint committee to make a thorough study and investigation with respect to the taxation, and the exemption from taxation, of (1) securities issued by or under the authority of the United States or the several States or political subdivisions thereof, (2) income derived from such securities, and (3) income received as compensation from the United States or from any State or political subdivision thereof. The joint committee shall report to the Senate and the House of Representatives, not later than February 1, 1939, the result of its study and investigation together with such recommendations as it deems advisable.

SEC. 3. The joint committee, or any subcommittee thereof, shall have power to hold hearings and to sit and act at such places and times, to require by subpoena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to have such printing and binding done, and to make such expenditures as it deems advisable. Subpenas shall be issued under the signature of the chairman of the joint committee, and shall be served by any person designated by him. The expenses of the said investigation, which shall not exceed \$, shall be paid out of the contingent funds of the Senate and House of Representatives, one-half to be disbursed by the Secretary of the Senate and one-half by the Clerk of the House of Representatives.

SEC. 4. The joint committee shall have power to employ and fix the compensation of such officers, experts, and employees as it deems necessary in the performance of its duties, but the compensation so fixed shall not exceed the compensation fixed under the Classification Act of 1923, as amended, for comparable duties. The joint committee is authorized to request the use of the services, information, facilities, and personnel of the departments and agencies in the executive branch of the Government and of the Joint Committee on Internal Revenue Taxation.

SEC. 5. All authority conferred by this joint resolution shall expire on February 1, 1939.

UNLAWFUL ENTRY INTO OFFICES OF SENATORS

Mr. BRIDGES submitted the following resolution (S. Res. 282), which was referred to the Committee on Rules:

Resolved, That the Secretary of the Senate is authorized and directed to pay, from the contingent fund of the Senate, rewards in the amount of \$1,000 in each case for the giving of evidence leading to the conviction of any person for unlawfully breaking and entering the office or storage room of any Senator, or for unlawfully taking and carrying away, defacing, mutilating, or destroying any property in any such office or storage room.

ANALYSIS OF WAGE AND HOUR BILL

Mr. WALSH. Mr. President, I have a letter which I requested from the Solicitor of the Department of Labor, Mr. Gerald D. Reilly, enclosing an analysis of the essential differences between the provisions and techniques of the Senate draft and the House draft of the so-called wage and hour bill. I submit the analysis for the information of the Senate, and ask that it be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF LABOR,
OFFICE OF THE SOLICITOR,
Washington, May 18, 1938.

Hon. DAVID I. WALSH,

United States Senate, Washington, D. C.

DEAR SENATOR WALSH: Enclosed herewith is a brief comparative analysis of the wage and hour bill as passed by the Senate and as reported by the House Labor Committee. This analysis deals only with essential differences in the provisions and techniques of the two drafts and does not seek to appraise the desirability of one as against the other.

Faithfully yours,

GERALD D. REILLY, *Solicitor of Labor.*

COMPARATIVE ANALYSIS OF PROVISIONS OF WAGE AND HOUR BILL AS PASSED BY THE SENATE AND AS REPORTED BY THE HOUSE COMMITTEE ON APRIL 21, 1938

HOUSE

Declaration of policy

The declaration of policy contained in the House committee version is substantially the same as that passed by the Senate.

Definitions

"Employee" is defined to mean any individual employed, suffered, or permitted to work (contains separate section (sec. 11) dealing with exemptions, which will be discussed below).

"Agriculture" is defined in general language and probably does not include forestry within its meaning.

"Employee" defined in such a way as to contain the various exemptions from the provisions of the act.

"Agriculture," in addition to carrying the general definition, is defined to include certain specific agricultural enterprises, such as growing of fruits, vegetables, nuts, flowers, livestock, bees, etc.

Administration

The administration is lodged with the Secretary of Labor, who is required to function through the Children's Bureau with reference to the enforcement of the provisions of the child-labor sections.

The administration is committed to a Labor Standards Board of five members appointed by the President.

Wages and hours

Fixes a rigid minimum wage of 25 cents the first year, 30 cents for the second year, 35 cents for the third year, and 40 cents for the fourth year and each year thereafter. It fixes a maximum workday of 8 hours and a maximum workweek of 44 hours for the first year, 42 hours for the second year, and 40 hours for the third year and each year thereafter. The wage and hour requirements are directed to all employers engaged in interstate commerce and "in an industry affecting commerce."

This provision of the bill is not self-executing, but requires the Secretary of Labor to hold public hearings for the purpose of determining which industries affect commerce.

Section 6 contains standards which are to guide the action of the Secretary of Labor in reaching his decision. Employers aggrieved by the order of the Secretary are given an opportunity of having the order reviewed by the circuit courts of appeal.

An order of the Secretary finding an industry "affecting commerce" is to take effect not more than 120 days after it is issued. After its issuance it may be modified or revoked whenever the Secretary finds that the facts so require.

For the purpose of any hearing the Secretary has the right to compel attendance of witnesses and the production of books, papers, etc.

Minimum wage and maximum hour standards are fixed by the Labor Standards Board after notice and hearing, based on certain enumerated factors, such as cost of living, relative cost of transportation, local economic conditions, etc. But the Board has no authority to fix a minimum wage in excess of 40 cents an hour or a maximum workweek of less than 40 hours, nor may any order with respect to wages and hours be issued until the Board has appointed an advisory committee to investigate and report upon the value of services rendered by the employees in the particular occupation or the number of hours of employment reasonably suitable to the nature of the work therein. Advisory committees are composed of an equal number of persons representing employers and employees in such occupation and disinterested persons representing the public. Court review is provided persons aggrieved by orders of the Board in the circuit courts of appeal.

The Board's orders may be modified from time to time when the facts warrant it after notice and public hearing, etc.

HOUSE—continued

Exemptions

(Contained in sec. 11.) Employees may be worked for more than the maximum number of hours fixed for a workweek or workday without incurring a criminal penalty upon the payment of time and one-half for overtime.

Groups exempted from all wage-and-hour provisions are substantially the same as in Senate bill. House committee amendment, however, makes no provision for exemption of overtime employment in periods of seasonal or peak activity.

Prohibitions

(1) Prohibits employment of employees engaged in interstate commerce or "in any industry affecting commerce" at wages less than the minimum fixed in the bill or for hours in excess of the maximum fixed in bill for workday and workweek;

(2) Prohibits transportation and sale in interstate commerce of goods produced by employees employed in violation of wage and hour provisions.

Investigations, inspections, records

The Secretary of Labor is authorized to gather data regarding wages and hours, conditions of employment, and inspect places and records to determine the existence of violations.

State agencies may be used for inspections, etc., with their consent.

Employers subject to the act are required to keep and preserve records of persons employed and wages and hours maintained by him.

Child-labor provisions

Reenacts Federal child-labor law declared unconstitutional in the case of *Hammer v. Dagenhart*. Producers, manufacturers, and dealers are prohibited from shipping in interstate commerce goods produced with "oppressive child labor," which term is defined to include the employment of any employee under the age of 16 years in any occupation or any employee between the ages of 16 and 18 years in an occupation which has been declared by the Children's Bureau as particularly hazardous for children or detrimental to their health.

Administration of the child-labor provisions is lodged with the Chief of the Children's Bureau of the Department of Labor.

Learners, apprentices, handicapped workers

The Secretary of Labor directed to provide for the employment of such persons under special certificates at wages lower than the minimum wage applicable to normal and seasoned employees.

Enforcement

Injunction proceedings authorized to restrain violations. Criminal penalties for violation of act or regulations.

SENATE—continued

Contained in definition of word "employee" and also in section 6.

(1) Makes it unlawful to transport in interstate commerce unfair goods; that is, goods produced at oppressive wages and hours, etc.

(2) Prohibits employment of employees engaged in interstate commerce or in the production of goods intended for transportation in violation of clause 1.

Comparable powers relating to investigations, inspections, etc., given to the Labor Standards Board.

Adopted technique of prison-made-goods law to goods produced by child labor.

Has comparable provisions.

Substantially the same.

RELIEF APPROPRIATIONS—ADDRESS BY SENATOR ADAMS

[Mr. McKellar asked and obtained leave to have printed in the RECORD a radio address delivered today by Senator ADAMS on the subject of pending legislation providing appropriations for relief purposes, which appears in the Appendix.]

NATURE OF THE AMENDING PROCESS—ARTICLE BY HON. HOMER CUMMINGS

[Mr. McAdoo asked and obtained leave to have printed in the RECORD an article by Hon. Homer Cummings, Attorney General of the United States, entitled "Nature of the Amending Process," published in the George Washington Law Review for March 1933, which appears in the Appendix.]

ADOPTION OF STATE CONSTITUTION OF NORTH DAKOTA

[Mr. Frazier asked and obtained leave to have printed in the RECORD an address on the subject of the adoption of the State Constitution of North Dakota, delivered by Charles D. Hamel, at Valley Forge, Pa., October 17, 1937, which appears in the Appendix.]

COAL—ARTICLE BY JESSE V. SULLIVAN AND J. HENRY KREPPS

[Mr. Holt asked and obtained leave to have printed in the RECORD an article on Coal, written by Jesse V. Sullivan and J. Henry Krepps, of the West Virginia Coal Association, which appears in the Appendix.]

SCANDINAVIAN CIVILIZATION—ARTICLE BY CARROLL KILPATRICK

[Mr. Hill asked and obtained leave to have printed in the RECORD an article entitled "Scandinavian Civilization," written by Carroll Kilpatrick and published in the Montgomery Advertiser, of Montgomery, Ala., May 15, 1938, which appears in the Appendix.]

INDEPENDENT OFFICES APPROPRIATIONS—CONFERENCE REPORT

Mr. BYRNES submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate Nos. 24 and 37 to the bill (H. R. 8837) making appropriations for the executive office and sundry independent executive bureaus, boards, commissions, and offices, for the fiscal year ending June 30, 1939, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 24 and 37.

JAMES F. BYRNES,
RICHARD B. RUSSELL, Jr.,
FREDERICK HALE,

Managers on the part of the Senate.

C. A. WOODRUM,
GEO. W. JOHNSON,
JOHN M. HOUSTON,
R. B. WIGGLESWORTH,
EVERETT M. DIRKSEN,

Managers on the part of the House.

The report was agreed to.

ISSUANCE OF TREASURY BONDS AND NOTES

The Senate resumed the consideration of the bill (H. R. 10535) to amend the Second Liberty Bond Act, as amended.

Mr. HARRISON. Mr. President, the bill that is now pending before the Senate, H. R. 10535, proposes to amend the Second Liberty Bond Act. The bill has passed the House, and an identical Senate bill has been reported unanimously by the Finance Committee.

The bill seeks to do this and nothing more: Under the present law the Treasury Department has authority to issue \$45,000,000,000 of bonds, notes, and bills. That is the limitation. Of the total amount, there is provided under existing law a limitation of \$25,000,000,000 on long-term securities and a limitation of \$20,000,000,000 on short-term securities. The Treasury Department has requested that the partition be removed so that, for orderly financing purposes, if the Department desires to exceed \$25,000,000,000 in long-term paper and to issue less than \$20,000,000,000 of short-term paper, it may do so. But the limitation of a total of \$45,000,000,000 on the issuance of securities, of course, is not amended or changed and will continue to apply.

I may say that of long-term paper or bonds there is now outstanding \$23,301,966,056.

Under the present limitation the Department may issue a total additional amount of bonds of \$1,698,033,944. Of the short-term paper, or notes and bills, there is now outstanding \$13,830,009,050, and the Department has the authority

to issue a total additional amount of \$6,169,990,950 under the present limitation. The Treasury Department believes that during the remainder of this year it can perhaps issue some long-term paper at a greater advantage to the Government, and the Secretary of the Treasury has recommended that this limitation be stricken out.

As expressed by the Senator from Michigan [Mr. BROWN], and perhaps by the Senator from Idaho [Mr. BORAH], there was some thought that a limitation might still be placed upon the issuance of long-term paper; so I took up the matter with the Treasury Department, and they have no objection to an amendment to be proposed by the Senator from Michigan which will provide that in no event shall the issuance of long-term paper exceed the amount of \$30,000,000,000, not disturbing in any way the \$45,000,000,000 limitation which the law now imposes upon the Treasury Department.

When the amendment is offered by the Senator from Michigan, I hope it may be agreed to.

Mr. BROWN of Michigan. Mr. President, I offer the amendment, which I send to the desk.

The VICE PRESIDENT. The amendment offered by the Senator from Michigan will be stated.

The LEGISLATIVE CLERK. At the end of the bill, it is proposed to add the following proviso:

Provided, That the face amount of bonds issued under the authority of this act shall not exceed in the aggregate \$30,000,000,000 outstanding at any one time.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Michigan.

Mr. BORAH. Mr. President, I wish the Senator from Michigan would explain the effect of his amendment. I do not fully understand just what the amendment is designed to accomplish.

Mr. BROWN of Michigan. Mr. President, the present situation in regard to the financing of the Government is as follows:

Approximately twenty-three and one-half billion dollars is in the form of bonds, which are obligations of 5 years and longer. The balance, up to approximately thirty-seven and one-half billion dollars, is in the form of bills and notes. In the terminology of the Treasury Department, a bill is an obligation of from 90 to 271 days, less than a year. A Treasury note does not exceed 5 years, and most of them are for a shorter period of time. The evil in respect to tax exemptions, as I see it, is in the issue of a large amount of additional long-term bonds, not short-term securities, at a time when we are attempting to meet the situation to which the President has called attention in his recent message on the subject of tax-exempt bonds. If we now authorize the issue of a large amount of tax-exempt bonds, we may bring about a condition which we cannot cure for a long time. Such bonds may be issued for, I think, as long a time as 20 years. The purpose of my amendment is to prevent the issue of a large amount of bonds, as distinguished from bills and notes.

The Treasury point out that it is desirable that they should refinance some notes and bills which will come due during this year, and by refinancing them in the form of bonds, or at least by having a choice, they can perhaps do a little better than they could by the issue of bills and notes. They cannot do so under the present limitation of \$25,000,000,000. I think, under their present plans, they would exceed that limitation by about a billion and a half dollars. The purpose of my amendment is to permit them to do that up to the amount of \$30,000,000,000, and not to permit the issue of bonds, as distinguished from notes and bills, above \$30,000,000,000.

While I am on my feet, I desire to say that with the chairman of the Finance Committee I have prepared a concurrent resolution for the creation of a joint committee, to consist of three members of the Committee on Finance of the Senate, three members of the Senate Judiciary Committee, three members of the Ways and Means Committee of the House, and three members of the House Judiciary Committee, to consider the question of prohibiting the further issue of tax-

exempt bonds by the Federal Government, the question of what we can do about the issue of tax-exempt bonds by State and municipal governments, and the question of the taxation of State salaries by the Federal Government and the taxation of Federal salaries by the State governments.

Mr. BORAH. Mr. President—

Mr. BROWN of Michigan. I yield.

Mr. BORAH. Assuming that the amendment offered by the Senator from Michigan will be adopted—and I suppose it will be—what is the amount of tax-exempt bonds which may be issued under the amendment offered by the Senator from Michigan?

Mr. BROWN of Michigan. Of course the Senator knows that all Government bonds, as well as bills and notes, are tax exempt to some extent at the present time.

Mr. BORAH. Yes; I know that.

Mr. BROWN of Michigan. The increased amount of bonds that may be issued is \$5,000,000,000. Practically, there will probably be not in excess of a billion to a billion and a half dollars of bonds issued between now and next January; but I wish to make certain that no more than \$5,000,000,000 of tax-exempt bonds will be so issued.

Mr. BORAH. The object of the Senator's amendment is to limit the amount of tax-exempt bonds which may be issued?

Mr. BROWN of Michigan. That is correct.

Mr. BORAH. And the Senator is of the opinion that that amount may be limited to \$1,500,000,000?

Mr. BROWN of Michigan. Yes, Mr. President.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Michigan [Mr. BROWN].

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

The VICE PRESIDENT. Without objection, Senate bill 3972 will be indefinitely postponed.

LOANS TO RAILROADS BY RECONSTRUCTION FINANCE CORPORATION—RECOMMITTAL

Mr. WAGNER. Mr. President, on May 5 the Committee on Banking and Currency instructed me to report favorably for the calendar a bill relating to the power of the Reconstruction Finance Corporation to make loans to railroads. At the time the committee considered and reported the bill it had no notice of objections to certain provisions of the bill, nor was there then any discussion of a threatened reduction of the wages of railway employees. Since then the committee has had two hearings, and it is very clear that if the bill is to be reported again the committee will make some amendments to it.

In the interest of orderly procedure, I feel that the bill now upon the calendar should be recommitted to the committee, so that when it concludes its consideration it may report the bill, if it decides to do so, in amended form.

Therefore, I ask unanimous consent that Senate bill 3948, being Calendar No. 1804, be recommitted to the Committee on Banking and Currency.

The VICE PRESIDENT. Is there objection to the request of the Senator from New York? The Chair hears none, and the bill will be recommitted to the Committee on Banking and Currency.

SEMINOLE NATION OR TRIBE OF INDIANS

Mr. WHEELER. Mr. President, yesterday I objected to the consideration of Senate bill 2495, Calendar No. 1861, introduced by the Senator from Oklahoma [Mr. THOMAS] and reported by the Committee on Indian Affairs. It is a bill authorizing the District Court of the United States for the Eastern District of Oklahoma to hear and determine certain claims of the Seminole Nation or Tribe of Indians.

Yesterday I was of the opinion that the matter should go to the Court of Claims, but upon an examination of the bill I find that it is a question involving the title to certain lands and really should go to the United States District Court for

Oklahoma. I therefore ask, because of the fact that I objected to the bill yesterday, that it be considered at this time.

The VICE PRESIDENT. Is there objection to the request of the Senator from Montana for the present consideration of Senate bill 2495?

Mr. KING. Mr. President, I desire to know whether the Interior Department has approved the bill.

Mr. WHEELER. It is my understanding that it has approved it.

Mr. KING. With that understanding, I have no objection.

Mr. McNARY. Mr. President, I desire to ask the Senator if, on the call of the calendar yesterday, objection was made to the consideration of the bill.

Mr. WHEELER. I was the one who objected to it, and I desire to correct the matter by having the bill considered at this time.

Mr. McNARY. Very well.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (S. 2495) authorizing the District Court of the United States for the Eastern District of Oklahoma to hear and determine certain claims of the Seminole Nation or Tribe of Indians, which had been reported from the Committee on Indian Affairs with amendments.

The amendments were, in section 1, line 7, after the word "Indians", to strike out "or on their behalf, or by any committee selected by the Seminole Indian Protective Association to represent such Indians", and at the end of section 2 to insert two new sections, so as to make the bill read:

Be it enacted, etc., That jurisdiction is hereby conferred upon the District Court of the United States for the Eastern District of Oklahoma, notwithstanding the lapse of time or statutes of limitation, to hear and determine any suits heretofore or hereafter instituted by the Seminole Nation or Tribe of Indians, with respect to the title to the following-described lands in Seminole County, Okla., or any clouds thereon, to wit: The south half northeast quarter and the southeast quarter section 7; the south 15.78 acres of lot 3, and lots 6 and 7, section 8, all in township 7 north, range 8 east, Indian meridian, containing 320 acres, more or less.

Sec. 2. The District Court of the United States for the Eastern District of Oklahoma shall have full authority, by proper orders and process, to bring in and make a party to the proceedings any person deemed by it necessary or proper to the final determination of the matter in controversy. The judgment or decree of such court shall be subject to review in accordance with the law governing like cases.

Sec. 3. In any such suit the Seminole Nation or Tribe of Indians shall be represented by counsel employed for the purpose under a contract approved in accordance with section 2103 of the Revised Statutes of the United States; and said contract shall be executed in behalf of the Seminole Nation or Tribe by a committee chosen for the purpose by a general council of the Seminole Indians under the direction of the Commissioner of Indian Affairs and the Secretary of the Interior: *Provided*, That in the event that prior to the execution of the contract the Seminole Nation or Tribe becomes incorporated under the act of June 26, 1936 (49 Stat. 1967), then the employment of counsel and the execution of the contract shall be governed by the provisions of the approved charter of the incorporated tribe.

Sec. 4. In the event any recovery shall be obtained by or for the Seminole Nation or Tribe in any suit instituted under this act, the court shall decree such amount or amounts as it may find reasonable to be paid out of said recovery to the attorney or attorneys so employed as compensation for their services; such compensation, however, not to be in excess of the amount stipulated in the contract of employment, or in excess of 10 percent of the amount of the recovery. The court shall also reimburse the attorney or attorneys out of any recovery for actual and necessary expenses incurred by them in the prosecution of the suit.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MISCONCEPTIONS AS TO RELATIONS OF UNITED STATES IN THE MATTER OF HELIUM TO GERMANY AND TRADE TREATY

Mr. LEWIS. Mr. President, there are reasons for my imposing on the Senate for a few moments upon a subject not relating to the bonding bill presented by the Senator from Mississippi.

The Government of Germany affects to have a grievance against the United States at this particular time which I am compelled to feel is the result of misinformation to a very

large degree. I refer particularly to the request of Germany that she be permitted to purchase helium, and at this point I beg to allude to the preparation of the minority report of the Committee on Military Affairs as to helium. While the report carries ostensibly my name as an author, I must say that the Senator from Massachusetts [Mr. Lodge], who wrote the minority report, is entitled to whatever credit may come to or be due from the expressions in or the manner of the preparation of the minority report.

Mr. President, it is assumed that we have opposed Germany enjoying the privilege sought by its representative here of late, for some reasons of opposition to the nation of Germany. I wish to have it understood that under no circumstances has the matter of opposition to the Government of Germany or to the German nation ever entered into the question of the disposition of the helium question before the Military Committee or as to any of its features.

There would be no objection to Germany having helium for commercial purposes, neither from Administrator Ickes nor from any committee of authority, if that were the only question at issue. Nor is it assumed, as is charged in certain high sources which reach us this morning, that we intimate that there may be conflict by Germany against the United States at some near time. We desire to have it known that it is not Germany so much that we feel would produce conflict upon this Government: it is that we could not lend ourselves to allowing helium, which is necessary as an instrument of assault as well as one of defense, to pass into the control of any nation where it could be turned against the United States. While that nation to whom it is transferred may not intend such use of it, we are conscious that it is an ally of a nation just now at war which, under circumstances of conflict, might lead to the point where we would find ourselves an antagonist.

Therefore, for that reason, and because Germany is an ally of Japan in the military affairs which are now occupying Japan, and for the reason that both Italy and Germany are allied with Japan, the prospects of possible difficulties make it impossible that the United States could allow the instrumentalities of her own defense to be put into the possession of those who through alliance of nations at some time might become her assailant.

There is another question which is wholly overlooked, however. The United States enacted a neutrality law, one, which I assert should in its terms have never been passed, and which I assert here at this point should very quickly, as it is now written, be wholly repealed and the subject be left to the regulations and direction of the President as commander of the forces of the United States. Yet, sir, having enacted the law, we could not therefore tender to any one nation instrumentalities of warfare which could by its relation be sent over to some other nation engaged in war to which we are professing to be a neutral people, and a neutral nation to all now engaged in conflict or likely to be by virtue of a pending conflict existing.

This brings me, therefore, to an impressive phase; one very serious, as I see it, one I submit to the honorable Senate that is a matter for our serious thought and consideration.

There are those who are charging openly, in behalf of the claims of a nation friendly to us, Germany, that before this matter of helium was disposed of by us there was a money contract between the owners of the ship *Zeppelin* and the United States; that such money contract had been made with our Government or its representatives and that the money was passed to the amount necessary as a just and proper consideration for such quantity of helium as was then contemplated by what is assumed to have been a contract.

I wish to have the Senate understand, and I beseech my colleagues to hear from me, as a matter of fact, that never before the committee having jurisdiction of this matter was such suggestion made or such information conveyed. Nor was there an intimation from any source that there had been deals with the Interior Department or with any officer of the Government of the United States which partook of the nature of a commercial closed contract between ourselves and

either Germany or those representing interests as the owners of the ship called the *Zeppelin*.

It is intimated that the owners of this ship—that is, the company which controls it—had made such an arrangement with someone somewhere alleged to be connected with authority in this Government. If such contract exists, it would be a sad plight for the United States if she really had taken a company's money with a specific understanding that she was to return to that company consideration in goods and then afterward had denied the goods, yet kept the money. If Germany entertains such an opinion, if any official in Germany is of such judgment, if any citizen of the nation of Germany, if anyone of German birth who is now an American should be of such conclusion, it would be a reflection upon our Government, and one which all of us would prefer to refute by disclosing that it has no foundation in fact. If it has a foundation in fact anywhere, it would be due to some misdirection. It is a thing of which no Member of the Senate at this time is aware.

I call attention to the facts in order that the situation might not be further misunderstood. Having been on the committee investigating the subject, and being authorized by my eminent colleague supporting the minority, the Senator from Massachusetts [Mr. LONGE], to present the question as it stands in truth, I wish to have the Senate know that no such fact was ever developed or was ever charged by legislators during the investigation of the question of the transfer of helium.

The able Senator from Utah [Mr. THOMAS] and the equally distinguished Senator from Kentucky [Mr. LOGAN], who participated in the investigation of the subject, both interested in the subject of helium, I am sure will bear me out, in order that we may have it known through confirmatory evidence before the world that no such circumstance of purchase contract was ever brought to us, if it ever existed.

One other point, and then I must refrain from further encroachment upon the Senate. It appears that Germany intimates that the trade treaties which the United States is constantly passing between itself and other nations, some of those known as favored nations, have not been extended to her. It is assumed that in this we are displaying partiality to the one and prejudice to the other.

Whatever may be the reason for the failure of the treaty under our former Ambassador, Dr. Dodd, or the fact that it has not been consummated under the present Ambassador, Mr. Wilson, the fact remains that the considerations which move to where there has been no success are in no wise due to any personal opposition to Germany as a government, nor opposition in any wise to any of the officials of that great country. There are reasons, commercial in character, necessary to be considered, which have not as yet been sufficiently developed in the investigation to justify a final determination.

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. LEWIS. I yield.

Mr. WHEELER. I think possibly I misunderstood the Senator. If I did not misunderstand him, I am rather shocked at his statement. I understood him to say that the reason why we did not sell helium to Germany was that the sale would be to a country which was allied with Japan and because of the danger of a possible conflict between this country and Japan. I do not think the Senator intended to convey the impression to the country that there was a possible chance of a conflict at this time between the United States and Japan or between the United States and any other country.

Mr. LEWIS. I wish to say to my able friend that he must have misunderstood me. I was explaining the reasons for the minority report at the time it was written, and the circumstances which surrounded it, which seemed to justify a fear, and because of those relations it was not felt wise, nor was it felt neutral, to grant helium to one of the parties who was an ally of Japan at a time when we felt the conditions were such that they might have led to conflict. Those matters, I trust, have been passed, and I trust, as my able friend

from Montana would intimate, that they have passed conclusively.

I conclude by saying that as to the commercial treaty, so soon as matters can be adjusted, I am sure this Government expects in a perfectly impartial manner to extend to Germany any favors or courtesies which it would extend to any other nation which stands in a position to demand just deserts to herself.

Having made the statement to the Senate in connection with the particular feature which I esteem very important, the matter of the helium; having discussed the question of the commercial contract for money; and having stated to the Senate the situation so far as our committee is concerned, and as it relates to the minority report which I participated in writing, I desire to say that the position of this Government remains today as it must remain forever, I trust, and has ever existed in the past, with friendship to all, with enmity to none.

I thank the Senate.

EXEMPTION OF INTERSTATE HIGHWAY BRIDGES FROM LOCAL TAXATION

Mr. BARKLEY. Mr. President, I move that the Senate proceed to the consideration of Senate bill 252.

The motion was agreed to; and the Senate proceeded to consider the bill (S. 252) to exempt publicly owned interstate highway bridges from local taxation, which was read, as follows:

Be it enacted, etc., That each interstate highway bridge and approaches thereto which has heretofore been constructed or acquired, or which shall hereafter be constructed or acquired by any State, or by any commission, board, or agency of a State, or by any county, city, town, or other political subdivision or public corporation, or by any commission, board, or agency thereof, or by any commission, board, or authority created by the Congress or by a compact entered into between two States with the consent of the Congress, each thereof being herein sometimes termed a "public authority," and which has been or shall be constructed pursuant to an act of the Congress consenting to or authorizing such construction, is hereby declared to be a Federal instrumentality for facilitating interstate commerce, improving the Postal Service, and providing for military purposes, and shall be exempt from all State, municipal, and local taxation so long as such bridge shall be owned and operated by such public authority, either as a free bridge or as a toll bridge: *Provided, however,* That if such bridge shall be operated as a toll bridge, it shall not be exempt from such taxation unless all tolls received from the operation thereof, less the actual cost of operation and maintenance, are applied to the repayment to such public authority of the cost of construction or acquisition of such bridge, or to the amortization of such cost, with reasonable interest and financing costs, nor unless after the amount contributed by such public authority, with reasonable interest and financing costs, in the construction or acquisition of such bridge has been repaid from the tolls, or after a sinking fund sufficient for the amortization of such cost shall have been provided, such bridge shall thereafter be maintained and operated free of tolls.

SEC. 2. The right to alter, amend, or repeal this act is hereby expressly reserved.

Mr. BARKLEY. Mr. President, the bill which on my motion has been made the unfinished business is the bill to which the Senator from Indiana [Mr. MINTON] yesterday objected on the call of the calendar. The bill seeks to exempt from taxation by a State or other subdivisions all publicly owned bridges across navigable streams that are boundaries between the two States. It provides:

That each interstate highway bridge and approaches thereto which has heretofore been constructed or acquired, or which shall hereafter be constructed or acquired by any State, or by any commission, board, or agency of a State, or by any county, city, town, or other political subdivision or public corporation, or by any commission, board, or agency thereof, or by any commission, board, or authority created by the Congress or by a compact entered into between two States with the consent of the Congress—

And so forth, shall be exempt from taxation.

The bill provides further on that when any such bridge is constructed and tolls are levied for the use of the bridge, the exemption shall not be effective, unless the tolls are applied to the retirement of the bonds issued for the construction of the bridge.

The bill is general and would exempt from taxation every interstate bridge built by a State or a county or a city. In the State of Kentucky, because of the peculiar history of the State, the Ohio River is altogether under the jurisdiction of

Kentucky. Kentucky being the first State that was carved out of the wilderness west of the Allegheny Mountains, it was natural in making the surveys and fixing the boundaries that the mean low water mark on the opposite side of the river was regarded and fixed as the boundary, so that the jurisdiction of Kentucky over the Ohio River along its entire northern boundary extends to the other side of the river. The same thing is true of the Mississippi River on the west.

Under an act passed by the Legislature of Kentucky, the State Highway Commission is authorized to build bridges or to acquire bridges not only over the streams within the State but over the streams which divide Kentucky from other States. Of course, the Ohio River, as Members of the Senate well know, separates Kentucky from Ohio, Indiana, and Illinois. The State of Kentucky has built or acquired a number of bridges across the Ohio River at the exclusive expense of the State of Kentucky. No other State has contributed anything to the building of these bridges.

The particular instance concerning which we indulged in a discussion yesterday involves a bridge at the city of Louisville across the Ohio River. The city of Louisville, under an act of the legislature authorizing it, undertook to construct an interstate bridge, on an interstate highway, a national highway, over the Ohio River connecting Kentucky and the city of Louisville with the northern bank of the Ohio River in Indiana. Bonds were issued under the authority of the law, and a toll is being levied for the purpose of retiring those bonds. As soon as the bonds are retired from the revenue derived from the bridge, the bridge will become a free bridge, free of toll or any other restrictions to the people not only of Kentucky and Indiana but of the whole United States, who may seek to travel over the bridge in their journeys north and south.

It seems to me there can be no reason why any State should want to levy a tax on such a bridge, even if it had contributed to the construction of the bridge. If it were a joint project between the two States, I cannot see why either State should want to levy a tax upon the bridge. The longer it takes to pay off the bonds which were issued for the construction of the bridge the longer tolls will have to be levied under the law.

There are a number of such bridges in Kentucky, and between Kentucky and the States to the north of Kentucky, which were built under an act of the legislature authorizing the issue of bridge bonds, and authorizing the levy of tolls, which are collected by the State, and the funds applied to the retirement of the bonds. If one bridge at Louisville can be taxed, all the bridges that connect Kentucky with Indiana, Illinois, and Ohio, or any other State can be taxed. A State which has foresight and courage and determination may build an interstate bridge at its own expense, and then another State which made no contribution to it may levy a tax upon it simply because, in order to have a bridge at all, it is necessary to have it footed on the other side of the river; it must be anchored on the other side, and it must be anchored on land acquired by the bridge authorities in order that the bridge may be built. The language of the bill exempts such a bridge from that sort of taxation. That is all it provides.

Mr. WHITE. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. WHITE. The measure before us comes from the Committee on Interstate Commerce. I confess this is the first time I have seen it. I think there could have been no hearings held by the committee with respect to the measure.

Mr. BARKLEY. The bill came before the committee during the last session of the Congress. There were no hearings by the Senate committee during the present session of the Congress. The measure had already been acted upon by it.

Mr. WHITE. A bridge may be built with State money, although it is true with the consent of the Federal Government, over an interstate stream. What troubles me is the basis for the authority of the Federal Government to say that the State which paid for the bridge has no authority to tax the bridge. I do not quite see how it would be any more

justified in saying that than to say that a State could not tax a boat which utilized a navigable stream, and over which the Federal Government has jurisdiction. I do not see how the Federal Government has any more authority to say that a State shall not tax a bridge than it has to say that a State shall not tax a boat which uses the artery of commerce.

Mr. BARKLEY. The difference is that the boat is privately owned. It is not public property. It is not owned by the State.

Mr. WHITE. Is it not for the State to determine whether or not the property is subject to taxation? What is the basis for the authority of the Federal Government to say that a structure built with State money may not be taxed by the State?

Mr. BARKLEY. That question was looked into by the sponsors of this proposed legislation. My colleague [Mr. LOGAN] also made some study of the matter. The conclusion was reached that when the Government makes an appropriation to build a highway leading to and away from a bridge, although not contributing to the building of the bridge, the provision of the bill is analogous to a provision exempting a Federal agency, which the bridge really is in a sense, although the Government of the United States does not put money into the bridge itself.

Mr. WHITE. Is not the situation in this instance different? Is not the authority with respect to the taxation of the land over which the highway runs to be found in the conditions under which the grant is made to the State? Does not a limitation—if that is the proper word—exist? Is not the authority which is asserted with respect to a highway into which Federal funds have gone, to be found in the conditions upon which the grant is made? A condition may perhaps be written into the congressional authority for the erection of a bridge over a navigable stream that the State should not tax it, but unless that condition is written into the legislation, and unless the bridge is built subject to that condition, I confess I do not quite see what authority the Federal Government has to say to the State of Kentucky, or to the State of Indiana, or to any other State, "You shall not tax this property into which your money is being invested." I am not interested in the proposed legislation, but that question arose in my mind.

Mr. BARKLEY. I will say to the Senator from Maine that that question arose in the minds of all those who were interested in this proposed legislation, and it was studied. Of course, one never can tell what the Supreme Court may decide upon any question which has in it any element of doubt, but we were satisfied that Congress had the right to provide against the local taxation of a bridge owned and operated by a public authority as a part of an interstate system of highways.

Mr. WHITE. I think Congress could regulate the use of a bridge which is part of an interstate highway system; but that it quite different, it seems to me, from undertaking to say what the authority of the State shall be with respect to taxation of property to which its funds have contributed, and to what extent such property shall be subject to State or local taxation.

Mr. BARKLEY. The Senator knows that all such bridges over navigable streams must be constructed by authority of the Federal Government.

Mr. WHITE. Yes.

Mr. BARKLEY. A form has been worked out which is usually followed with respect to publicly owned bridges and bridges on which tolls are to be charged. Publicly owned bridges are different from privately owned bridges.

Mr. WHITE. That is quite true; but no such provision as that which is here proposed is contained in those forms.

Mr. BARKLEY. I do not know that anything was said about the question of taxation. In fact, that question had not arisen.

Mr. WHITE. I have no doubt that as a condition to granting the right to erect a bridge over a navigable stream of the United States Congress could incorporate a limit upon the

right of a State or town to tax. However, I do not quite see how such a provision could be made retroactive.

Mr. BARKLEY. No private rights are involved. Of course, Congress might attach a condition in the authority granted to construct the bridge, and it might supplement that authority by a condition with respect to the use of the bridge, because Congress never surrenders the right to modify, amend, or even repeal an act under which a bridge is constructed across a navigable stream.

Mr. MINTON. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. MINTON. If a bridge is built between Kentucky and Indiana, it must be built under some compact between the State of Indiana and the State of Kentucky. I believe such a compact has been entered into in every instance in which a bridge has been built across the Ohio River between Indiana and Kentucky. If in that compact Indiana had waived its right to tax the bridge, then of course it would be estopped so to do. But not having done so, the Federal Government may not impose its authority upon the State of Indiana, which has not given up its right to taxation under the compact, and say that the State of Indiana may not tax that which is within its territorial limits.

Indiana has not given up the right to tax. The bridge is not Federal property. The question is one between Indiana and Kentucky; and if the question is not covered by the compact, the right to tax is not surrendered by the State of Indiana.

Mr. BARKLEY. Of course the compact referred to is merely an agreement between Indiana and Kentucky. The bill would not apply merely between Indiana and Kentucky. It would apply between Kentucky and West Virginia in building bridges over the Big Sandy, which divides Kentucky from West Virginia. The compact is merely an agreement on the part of the two States that Kentucky may build the bridge and pay for it, or that the city of Louisville may build the bridge and pay for it. The other State, of course, consents that the bridge may have abutments, which are necessary, on its side of the river.

The control of Congress over navigable streams and obstructions to navigable streams gives us our authority to confer the right to build bridges. If that authority means anything, it means a continuing authority. The mere fact that there is no reference in the original act, or even in the compact between the two States to the power of either State to tax the bridge, which is a public convenience—really public property—does not deprive Congress of the continuing right, provided in all such acts, to repeal, amend, or modify the authority conferred at any time Congress may see fit to do so.

I am not criticizing the State of Indiana. Personally, I am very fond of Indiana. I have many friends in Indiana. The question is not one merely between Indiana and Kentucky; and it ought not to turn upon the jealousies which exist in communities over whether a bridge shall be located at one place or another. It is an anomalous situation that a State or a city may pledge its credit to build a bridge, not only for the convenience of its own people but for the convenience of the people of the other State, and the other State may make no contribution, and take no initiative in building the bridge, and yet seek to levy a tax upon the bridge which is built by the neighboring State, or a city in the neighboring State, for the accommodation of the people of both States in crossing the river.

Mr. SMATHERS. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield to the Senator.

Mr. SMATHERS. The question which bothers me is, Whence does the Congress derive its authority to prohibit the State of Indiana from exercising its right to tax value which has been placed in that State, unless the bridge belongs to the Federal Government? How does our authority arise?

Mr. BARKLEY. The authority is in the authority of the Congress to regulate commerce. It is under that authority that Congress gives its consent to the construction of all such bridges. Congress, in granting the authority, may

make any condition it sees fit to make. Congress undertakes to regulate bridges which provide for tolls, whether they be privately owned or publicly owned. Congress gives the Secretary of War power even to intervene with respect to levying tolls. The mere fact that a bridge is not a Federal bridge, or that the Federal Government did not build it, does not take away from the bridge its interstate character, and does not eliminate the fact that the Federal Government has put money into the roads which lead up to the bridge and away from it. The roads themselves are not the property of the Federal Government.

Certainly the Federal Government may provide that no tolls shall be levied on any highway which it helped to construct. The Federal Government may grant money to cooperate with a State on the condition that no tolls shall be levied. Congress may impose such a condition even in connection with building a bridge in which the Federal Government has not invested a dime of its money.

The bridge referred to was built by a political subdivision of the State, under the authority of Congress which retains the right, at any time during the existence of the bridge, to amend, repeal, or modify the act under the authority of which the bridge was constructed. It seems to me that the retention of that right is the exercise of authority to regulate commerce, because if the bridge is taxed, the tax must be taken out of the tolls levied, which are to be used to pay off the bonds which were issued to build the bridge. The more taxes which are levied upon the bridge, the longer it will be before the bridge will be free. Certainly that is a matter over which Congress has some jurisdiction.

Mr. WHITE. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. WHITE. Could not the bridge be taxed as physical property within the town where it is located? The tax does not have to be levied on the basis of tolls collected.

Mr. BARKLEY. If the bridge is taxed, of course it will be taxed upon the basis of valuation.

Mr. MINTON. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. MINTON. Under our power to regulate commerce, of course, we do regulate commerce, and attempt to prohibit taxes which would burden interstate commerce. However, it has never been held that agencies engaged in interstate commerce may not be taxed on their property located within the jurisdiction of any State in which such agencies operate.

For example, we tax the property of the railroads which pass through the State of Indiana; but there are certain taxes which the State of Indiana may not place upon railroads. I refer to taxes which would burden interstate commerce.

Mr. BARKLEY. The ownership and the taxation of railroads are matters between the State and the owners of private property.

If we have the power, as I think the Senator will concede, to prevent a State from levying a burdensome tax which would interfere with or be a burden upon interstate commerce, we certainly have the same authority over a public highway with respect to which taxation would be a burden upon interstate commerce.

The tax levied on the bridge is based upon a valuation commensurate with the amount of bonds issued as a result of the vote of the people. To the extent that the tax is levied, it cripples the authority of the city or the State to free the bridge from tolls, and constitutes a burden upon interstate commerce. No one will deny that the collection of tolls over an interstate bridge is a burden upon interstate commerce, and handicaps interstate commerce to that extent. However, most persons are willing to bear that burden in order to enjoy the accommodation which enables them to travel from one State to another.

Mr. BORAH. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. BORAH. As I understand, the bridge referred to crosses a stream which separates two States.

Mr. BARKLEY. That is correct.

Mr. BORAH. It is a part of the means by which the people travel from one State to another.

Mr. BARKLEY. That is correct; and it is a part of an interstate highway system to which the Federal Government has made contribution in the construction of the road itself, although it has made no contribution to the bridge which connects the roads in Indiana with those in Kentucky.

The bridge referred to represents a particular instance; but the question might arise at any place in the country where one State, or the community on one side of an interstate river, is willing to undertake the task of building a bridge to which the other State makes no contribution whatever. The other State merely consents that the abutments of the bridge may be placed on property on its side of the river.

Mr. SMATHERS. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. SMATHERS. If a bridge is an instrument of interstate commerce, how may either State tax it?

Mr. BARKLEY. Of course, if the bridge were private property, it might be taxed. I do not think any right exists in either State to tax a publicly owned instrument of interstate commerce, but the attempt has been made to tax it, regardless of whether or not any right exists to do so.

Mr. President, I have nothing further to say about this measure. I hope it will be passed.

Mr. LOGAN. Mr. President, I have only a very few words to say on this particular matter.

I can well sympathize with those who have some question as to the power of Congress to pass the bill, but, after a rather thorough consideration of the matter, I have reached the conclusion that it is within the power of Congress to provide such exemption from taxation.

In the first place, the bridge never could have been erected without the authority of Congress. Congress granted that authority because the erection of the bridge promoted three things—interstate commerce, the national defense, and the Postal Service.

The bill applies to no bridges which are owned by private individuals or by private corporations and which are operated for profit. The discussion has related to the State of Indiana and the State of Kentucky. The bill applies as well to every other State in the United States. The State of Indiana has no interest in the bridge, but only in the abutment of the bridge on the Indiana side of the river.

Of course, Kentucky could not, if it desired, and neither could any arm of the Government, tax one of these bridges because they are, in effect, the instrumentalities of the State; they are a part of the government of the State. I think we ought to bear that well in mind. I will not undertake to state it as a fact, but I doubt whether one State of the Union can tax the property of another State of the Union.

Mr. BORAH. Mr. President, will the Senator yield?

Mr. LOGAN. I yield.

Mr. BORAH. May I ask the Senator if it is his view that the State of Indiana, for instance, could not tax this bridge?

Mr. LOGAN. I do not think it could. I will give the reason for my opinion, and I think if the junior Senator from Indiana will listen to me for just a moment he will withdraw the objection to the passage of this bill. This bridge was built by the authority of Congress, first, and by the authority of the State legislature, second. The State Legislature of Kentucky authorizes—and this applies to most of the bridges—the State highway commission to construct bridges under what may be known as the self-liquidating plan; that is, the State highway commission, under the authority of the State of Kentucky, may issue bonds and sell them to the public in order to raise the money with which to construct one of these bridges. The security of the bondholder is the income in the way of tolls from these bridges. After the bonds have been retired the bridge belongs to the public. No one is out anything; the bondholders have their money, and the public has a free bridge.

Now let us pursue that just a little further. Indiana has no interest, we will say, in the Louisville bridge except that the north end of the bridge rests on the soil of Indiana.

Indiana had already dedicated or conveyed to the public the road of which this particular bridge is a link. That road had already been given to the public, and not only to the public so far as Indiana is concerned, but to all the public that may travel over the highway in interstate commerce or for military purposes or for the purposes of the Postal Service. Indiana had already given that. Now Kentucky says, "We are going to build a bridge, but since Indiana has so little interest in it we will not ask Indiana to share with us"—I believe Indiana did share in the case of one of the bridges at Evansville, as I recall—"we will build this bridge by authority of the State legislature pursuant to the authority vested in it by the Congress." When tolls are imposed everyone pays the toll until the bonds are retired, which occurs sometimes in 5 years and sometimes in less time than that. I have known a bridge to pay within 18 months the entire purchase price.

Mr. BARKLEY. Mr. President, will the Senator yield there?

Mr. LOGAN. Yes.

Mr. BARKLEY. That is the plan adopted by the State legislature, which has enabled the State to build and purchase many bridges over streams that could never have been built under any other plan, because the State did not have the money with which to build them and pay the cash, and the local communities could not do it. So there was worked out this plan, by which the people would be enabled to have the benefit of these bridges and use them as parts of the highways, State and Federal, for travel and for the use of commerce and the mails and all other purposes.

Mr. LOGAN. That is true, and the State has invested millions of dollars in bridges under this plan.

Mr. CLARK. Mr. President, may I interrupt the Senator there?

Mr. LOGAN. I yield.

Mr. CLARK. Exactly the same principle would apply in many cases where toll bridges have been constructed by private enterprise and it was desired to take them over, to be dedicated to the public as soon as the income bonds could be paid off.

Mr. LOGAN. I think the same principle would apply in such a case.

While I do not like to boast of them, I might say that several things I have done I am very proud of. I happened to be a member of the court in Kentucky when the question arose as to whether bonds could be issued and their retirement secured through pledging the income from the particular structure which might be erected. I think I wrote the first opinion that was ever written upholding that doctrine, and out of that grew this whole plan of building bridges.

What I started to say, and what I want to complete, is that Indiana has no interest in this particular bridge. If it should be conceded that Indiana can tax Kentucky—which I do not concede—I wish to point out how unfair it would be to impose such a tax, when the citizens of Kentucky have built the bridge in the way I have pointed out for the purpose of absolutely giving the use of it free to the State of Indiana and all other States, and when in a very few years, perhaps within the next 2 or 3 years, Indiana will have the same interest in this bridge that Kentucky has, because it will be free to every citizen who desires to travel across it.

Because of that, it is my contention that no State has the right to tax the instrumentality of another State used exclusively for the public good, not only for the public good of the citizens of the two States but for the public good of the Nation.

I further contend that the United States Government may authorize the construction of post roads and military roads and that the Congress has the power to provide as a condition precedent that such instrumentalities shall not be subject to local taxation; and, if it can do that, I undertake to say that it has the right after the grant has been made to go back and amend the grant to the extent of providing that there shall be no local taxation.

I think the measure is eminently fair. I have not the slightest doubt that the bill ought to pass, and I have not the least doubt that it is entirely valid.

Mr. BORAH. Mr. President, will the Senator yield?

Mr. LOGAN. I yield to the Senator from Idaho.

Mr. BORAH. I may say that it is not clear to me that a State can tax this bridge.

Mr. LOGAN. I do not think it can, either.

Mr. BORAH. That is where my doubt arises; but if a State can tax it, and has the right to tax it as a sovereign, I do not believe Congress can take away that right.

Mr. LOGAN. I believe the Senator will concede that the bridge must be constructed in the first place under the authority of the Federal Government for Federal uses. My contention is that when the Congress granted the power to the State highway commission to erect the bridge it could have written into that grant of authority that the bridge when constructed shall be supported by tolls and freed of debt by tolls and shall be free from local taxation. I believe Congress has that power.

Of course, I agree with the Senator that Indiana cannot tax this bridge; neither can Kentucky nor any political subdivision tax it, but, since the question has been raised, I think it would be well to put it to rest forever by Congress saying, as a part of the grant which it has made, that no local authority may tax the bridge.

Mr. MINTON. Mr. President, the State of Indiana is interested in this particular bill because there are a number of bridges across the Ohio River from Kentucky into Indiana. These bridges have been built largely under authority granted by the State of Kentucky and the State of Indiana, the authorities of the two States acting in conjunction. It is not an accurate statement to say that these bridges were built with the credit of Kentucky. In no instance between my State and the State of Kentucky has any bridge ever been built solely on the credit of Kentucky. In many instances an authority was set up by the State of Kentucky to build a bridge, but the credit of the State of Kentucky was not pledged to the extent of a nickel's worth. The only thing done under that authority granted by the State of Kentucky was to build the bridge and provide for its payment out of the revenue.

The bonds were sold, and the bonds were a charge upon the revenue, and a charge upon the revenue solely, and not a charge upon the taxpayers of Kentucky at all. The taxpayers of Kentucky have never put up a dime to build one of these bridges between the State of Indiana and the State of Kentucky that has not been matched by the State of Indiana. In fact, the bridge at Evansville, Ind., as the junior Senator from Kentucky has stated, was partly paid for by the State of Indiana, which put into it several million dollars. But when that bridge was completed and paid for and turned over to the public for travel, free of tolls, it belonged to Kentucky, and Indiana did not have a thing to show for the million dollars it put into the bridge at Evansville.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. MINTON. I yield.

Mr. BARKLEY. While it is true that, in the ordinary sense, the credit of Kentucky was not pledged so far as its general revenues were concerned to pay the bonds, it was under the authority of the State of Kentucky that the bridge was built and the tolls levied. The requirement is that from the tolls the bonds shall be retired, but in providing for retiring the bonds from the revenues the State of Kentucky controls the tolls and controls the amount that is charged. That is not only true as to interstate bridges, but it is true as to intrastate bridges built in Kentucky; that while there is no charge on the general revenues of the State for the retirement of the bonds, the State of Kentucky has undertaken the building of bridges; it has provided for the issuance of bonds, and they are to be paid for out of the revenues of the bridges themselves. The Senator will not contend that the credit of Indiana has been involved in any way in the construction of these bridges, will he?

Mr. MINTON. Not at all.

Mr. BARKLEY. The State has purchased one or two bridges that were built by private authorities. For instance, the State of Kentucky purchased a bridge extending from Madison, Ind., to Milton, Ky., and, I believe, paid for it entirely out of its road funds. I think it paid \$800,000 for the bridge, which had been previously constructed by private authority. Now it is all owned by the State of Kentucky. There are no bonds outstanding against it. The bridge has been paid for in cash. If the State of Indiana can tax bridges at all, it would have just as much right to tax that bridge as it has to tax one that is being paid for from the revenues obtained from tolls over the bridges at Louisville or anywhere else.

While we are on that subject, I will say to the Senator from Idaho [Mr. BORAH] that I have always contended that neither the State of Indiana nor any other State has a right to tax one of these agencies of the State of Kentucky. This bill would not be here if it were not for the fact that the State of Indiana has attempted to levy a tax upon this bridge.

Mr. BORAH. Has the question reached the courts?

Mr. BARKLEY. No; I do not think the bill actually passed and became a law; but a constant threat by the Legislature of Indiana hangs like a pall over the State highway commission and over the local authorities with respect to this bridge and other bridges.

Mr. LOGAN. Mr. President, if the Senator from Indiana will yield, I merely wish to say that I said I was proud of the plan I worked out while I was a judge. The reason why I was proud of it, and am still proud of it, is that we found a way to carry on great public improvements without pledging the credit of a city, or a county, or the State itself; and that is the reason why the plan has worked so successfully. As the Senator from Indiana says, there is nothing pledged except the income from the bridge that we are now talking about. The State pledges no credit. The municipality pledges no credit. The only thing we can say about it is that the State of Kentucky manages it for the benefit of all the people of Kentucky and elsewhere.

Mr. MINTON. The State of Kentucky manages it because the State of Kentucky owns all of the Ohio River. That is just in the cards and cannot be helped. We cannot even fish in the Ohio River unless we obtain a permit from Kentucky. We do not have anything to do with the Ohio River, and that is why Kentucky has to control the building of bridges over it.

Mr. BARKLEY. Kentucky is not responsible for the fact that Indiana got there late so far as the Ohio River is concerned.

Mr. GUFFEY. Mr. President, may I ask the Senator from Indiana a question?

Mr. MINTON. I yield.

Mr. GUFFEY. Was that provision in the law when Indiana was admitted to the Union?

Mr. MINTON. Oh, yes.

Mr. GUFFEY. That was known, then, when Indiana was admitted to the Union, was it?

Mr. MINTON. Yes.

Mr. GUFFEY. Then why does the Senator complain about it today?

Mr. MINTON. I am not complaining; I am explaining. It is not by way of complaint, only by way of explanation.

Those representing Kentucky say, "We built the bridges." They first said, "We put up the credit." Now they have backed away from that assertion. They did not put up a nickel of credit. They did not pledge the credit of Kentucky. The credit they pledged comes as much from the people of Indiana as from the people of Kentucky, because the people of Indiana pay more tolls than the people of Kentucky pay. More people travel from southern Indiana into Kentucky than travel from Kentucky into Indiana, because Louisville, Ky., is the great metropolis of Kentucky, and the great metropolis of southern Indiana, too, if you please.

Mr. SCHWELLENBACH. Mr. President, will the Senator yield?

Mr. MINTON. Yes.

Mr. SCHWELLENBACH. Would not the answer to that be to build up New Albany and make it such an attractive place that people would go from Louisville into New Albany?

Mr. MINTON. As I have said before, Louisville is merely a suburb of New Albany. [Laughter.]

Mr. LOGAN. Mr. President, will the Senator yield?

Mr. MINTON. I yield.

Mr. LOGAN. I desire to make a further statement for the purpose of making the matter clear. The operation of these bridges, keeping them in repair, painting them, the compensation of the collectors of toll, and all those things, are paid by the State of Kentucky; but not out of the tolls, because the tolls are wholly and completely pledged to the retirement of the bonds. So to that extent Kentucky does put up more than Indiana.

Mr. MINTON. That may be true of the bridges internally in Kentucky, but it is not true of the bridges across the Ohio River.

Mr. LOGAN. I think it is.

Mr. MINTON. Certainly it is not true of the one which crosses at Louisville, because the State of Kentucky did not have anything at all to do with that except to authorize the municipality of Louisville to build the bridge.

Mr. LOGAN. That is true; but I am speaking of the other bridges.

Mr. MINTON. All the cost and expense of maintaining that bridge comes out of the revenues which are derived from the bridge, and Kentucky does not put up a nickel for it. Neither Louisville nor Jefferson County put up a nickel for the bridge between Jeffersonville, Ind., and Louisville, Ky.

Mr. BARKLEY. Mr. President, I happen to have information that the bridge was recently painted, for instance. I do not know that that is an important item, but it makes cumulative the evidence that, of course, this is entirely a Kentucky proposition. The bridge was recently painted, and it was painted by the city of Louisville from funds in the treasury of Louisville. The money did not come out of the bonds. The tollkeepers are all paid out of the general funds of the city of Louisville, as I understand. I know that is true of all the bridges over the Ohio River and over all the rivers.

Kentucky has taken the initiative in building bridges over all the streams that separate her from other States, outside of Evansville. I am not saying that by way of criticism at all. We have been willing to do it. We took the initiative. We have been willing to obligate ourselves in this way. Whether or not it is a real obligation on the general fund is not material; but in the instances in which the State has purchased outright bridges already built it would certainly be an obligation on the part of the State, because the money is taken out of the funds of the State road commission.

Personally, I cannot understand why it is that any State holds on or tries to hold on to the right to tax a public instrumentality of another State built as much for the accommodation of one as for the accommodation of the other.

Mr. SCHWELLENBACH. Mr. President, will the Senator yield?

Mr. MINTON. I yield to the Senator from Washington.

Mr. SCHWELLENBACH. A few minutes ago the Senator indicated that some legislative action was taken by the State of Indiana at the time these bridges were built.

Mr. MINTON. The Senator is right. Of course we authorized the authorities of Louisville to build a bridge on the Indiana shore.

Mr. SCHWELLENBACH. Was there anything in that legislation to indicate an intention upon the part of the State of Indiana to tax the bridge?

Mr. MINTON. Nothing whatever.

Mr. SCHWELLENBACH. Then, in view of the fact that the bridge was built with money secured by the sale of bonds, and looking at the matter purely from the point of view of fairness to the people who put up the money by the purchase of bonds, does not the Senator feel that it is

improper now to place an additional burden upon the revenues of the bridge, and to that extent reduce the security which the bondholders have, or reduce to that extent the revenue available for the retirement of the bonds?

Mr. MINTON. I do not understand that any of the bondholders are complaining. There is plenty of revenue.

As I was saying a while ago, Kentucky cannot claim any credit because it took the initiative in building these bridges, because, as I said, Kentucky owns the river, and nobody else could take the initiative. Therefore, Kentucky took the initiative. Kentucky deserves no credit for putting up any money, for, as I have pointed out, and as the Senator from Kentucky admits, Kentucky put up no money.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. MINTON. Yes.

Mr. BARKLEY. The fact that Kentucky owns the river from a jurisdictional standpoint would not have prevented Indiana from coming here and obtaining from Congress authority to build a bridge over the river at that point, and getting from Kentucky the same sort of an agreement that Kentucky got from Indiana, to let the other end of the bridge lean on her soil.

Mr. MINTON. That would be something like the tail wagging the dog. I am sure Kentucky would not have liked it if Indiana had tried to build a bridge in Kentucky.

Mr. BARKLEY. I am not sure we would not have been willing to have Indiana take the initiative in building all these bridges. They have not done that. That is all I can say.

Mr. MINTON. We took the initiative at Evansville; and we put up, as I remember, more than \$3,000,000 to help build a bridge there, and when the bridge was completed it all belonged to Kentucky.

Mr. BARKLEY. It was very fine of Indiana to do that with respect to that one bridge, after we had built all the other bridges over the Ohio River.

Mr. MINTON. I do not understand that Kentucky ever built any.

Mr. BARKLEY. The bridge is there, anyway, and Indiana did not build it.

Mr. MINTON. Indiana did build it, because Indiana people pay more revenue to it than Kentucky people do.

Mr. BARKLEY. I do not know about that.

Mr. MINTON. As I said a while ago, the city of Louisville is the great metropolis of Kentucky, as it is of southern Indiana. If one wants to get to Louisville, Ky., from southern Indiana, he has to go across one of these bridges. The people of southern Indiana travel largely back and forth to Kentucky, and they pay more of the revenue that retires the bonds and provides for meeting the expenses of the bridges than do the people of Kentucky, because the people of Kentucky have not much interest in going over on the Indiana side except to go to French Lick, or some other such place.

Mr. BARKLEY. If the Senator will yield at that point, I am sure the Senator will not deprecate French Lick as an attractive place for assembling and congregating. Undoubtedly it is, in a certain sense, the center of the world; but if there are more people in Indiana who want to get to Kentucky than there are Kentuckians who want to get to Indiana, the Senator ought not to complain that we have provided the way to accommodate the people of Indiana in getting into Kentucky.

Mr. MINTON. Again I am not complaining. I am just explaining that Kentucky did not put up the money. The people of Kentucky are asserting that they put up the money. I am saying, not by way of complaint but by way of explanation, that we of Indiana are largely putting up the money to pay the tolls to cross these bridges.

Mr. BORAH. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Indiana yield to the Senator from Idaho?

Mr. MINTON. I yield to the Senator.

Mr. BORAH. In view of this controversy between two leading Democrats, I suggest that a compromise might be

worked out by the Senator from Pennsylvania [Mr. GUFFEY], in view of his late experience. [Laughter.]

Mr. MINTON. The junior Senator from Kentucky [Mr. LOGAN] said that Kentucky could not even tax these bridges. I have the greatest respect in the world for the opinion of the junior Senator from Kentucky on a proposition of law; but I am sure that the State of Kentucky, if it wants to do so, can certainly tax its own property, or tax the property of any subdivision of the State that it may want to tax, although as a matter of policy the States hardly ever do that.

Mr. LOGAN. Mr. President, if you will read the Constitution of Kentucky—I do not know about the Constitution of Indiana; I do not even know whether Indiana has a constitution—but I do know that if you will read the Constitution of Kentucky you will find out that the State of Kentucky cannot tax the State's public property.

Mr. MINTON. If the Senator will investigate, he will find that the State of Indiana can. If the State of Indiana wanted to tax one of its instrumentalities, it certainly could do so. Of course, if the Senator from Kentucky says that that cannot be done in Kentucky, I accept his statement.

Mr. BARKLEY. Of course, any State has a right to provide in its constitution that it may tax its own property, which would mean that it could tax itself. That would result in taking money out of one pocket and putting it in another. If a State wants to do that, of course, it can do so; but it ought not to be allowed to take money out of other States' pockets and put it in its own pocket.

Mr. MINTON. I am talking about power; I am not talking about policy. Whether we want to take money out of one pocket and put it in another pocket is a matter of policy. I am talking about power when I refer to the State's ability to do it. That is an entirely different thing from the policy of doing it.

Mr. President, the question has arisen as to whether or not Indiana can tax an instrumentality which is owned by the State of Kentucky, although a part of the instrumentality rests within the territorial jurisdiction of the State of Indiana. I think there can be no question about that, unless the State of Indiana has surrendered the power somewhere to someone.

Mr. AUSTIN. Mr. President, will the Senator from Indiana yield?

Mr. MINTON. I yield.

Mr. AUSTIN. I observe that the Senator and other Senators have almost uniformly raised the question as to the power of the State. I desire to know whether in their States it is not true that the taxing of the physical properties of bridges, abutments, and other structures of the bridge, is not invariably done by the town in which the property is situated rather than by the State.

Mr. MINTON. Of course, the local authority in the State would make the assessment, and it would be put on the rolls there, then there would be laid against that valuation or assessment whatever tax the State levied, the county levied, the township levied, or the city levied. It would all be collected by the treasurer of the county in which the abutment rested.

Mr. President, the question arises as to whether or not the State of Indiana can tax an abutment which rests wholly within the territorial limits of Indiana. I say that the State of Indiana can do that unless it has given up that power, because the State of Indiana is sovereign to the extent that it has not given up its power to the Federal Government, or limited that power in its own constitution.

There is nowhere in the Constitution of the United States a provision which would prevent the State of Indiana from taxing any property of another State found within the territorial limits of the State of Indiana. The State of Indiana has not surrendered that right of taxation to the Federal Government and if it were a right which the State of Indiana had surrendered, it would be a right surrendered to the Federal Government, and it would not be an exemption in favor of some other State. The State of Indiana has not given that power to the Federal Government, and the Fed-

eral Government not having it, at least cannot exercise it in behalf of some other State.

The State of Indiana has not given up that power by its own constitution, and the State of Indiana has not given it up in the contract it entered into with the State of Kentucky. Therefore the power still exists in the sovereign State of Indiana to tax property which rests within the territorial jurisdiction of the State of Indiana.

I think a suit has been instituted in Indiana, and, while I am a little bit rusty on the recent opinions of the supreme court of my State, and have not kept up with them as I should have, I believe the Supreme Court of Indiana has sustained the tax on its end of the bridge. I am further borne out in my recollection by efforts which have been made to have Indiana pass a law which would exempt the end of the bridge in Indiana from taxation. So I think that the Supreme Court of Indiana has held that the county of Clark, in which rests the bridge which crosses over from Louisville, Ky., had the right to tax that end of the bridge which was within the territorial jurisdiction of Clark County.

I say, therefore, that the State of Indiana has the right, and the Federal Government cannot take that right away from the State of Indiana by an exemption in a statute of the kind proposed, because the right does not reside in the Federal Government.

Mr. AUSTIN. Mr. President, I have been greatly interested in the discussion of this matter, because the bill is not limited in its effect to the controversy between Indiana and Kentucky. Vermont and New Hampshire have a quite similar situation, and I am sure that in many places throughout the United States this measure would have effect if it were enacted into law.

I call attention to the situation between Vermont and New Hampshire because I think it ought to be considered in connection with the question asked by the Senator from Idaho [Mr. BORAH], since I think that for years, perhaps more than a hundred years, there has been a practical interpretation placed upon the subject of the taxation of bridges by the States of Vermont and New Hampshire.

During a great many years Vermont and New Hampshire cooperated to a considerable extent in the improvement of the Connecticut River and the navigation of the river, in bridging it, and in freeing bridges from toll. Among other things New Hampshire granted charters for 35 bridges spanning the Connecticut River after 1791. Vermont cooperated in most instances with corresponding charters. Of course, I must observe in passing that these charters had somewhat the nature of incorporations. They authorized proprietors in certain towns to erect bridges and to collect tolls for their maintenance.

I find, upon refreshing my recollection, that of the 35 bridges across the Connecticut River between Vermont and New Hampshire, to which I have referred, the approaches to 5 of them were taxed. I first refer to the Columbia Union Bridge Corporation, which erected a bridge between Columbia, N. H., and Lemington, Vt. With reference to this bridge, the town of Lemington, Vt., assessed the west abutment in 1893, and in 1908 and 1909 the description given was "approach to abutment and part of bridge."

I refer next to the proprietors of Lyman Bridge, a bridge between Monroe, N. H., and Barnet, Vt. The town of Barnet taxed the Lyman Bridge Co. from 1893 to 1924 for toll houses and land adjacent to the bridge, and in 1922 the description included "abutment to bridge."

Mr. BARKLEY. That was a privately owned bridge, was it?

Mr. AUSTIN. That is the point I am about to make when I conclude this list of five. I wish to point them out, because I think this amounts to a practical construction.

I next refer to the proprietors of Piermont Bridge, a bridge between Piermont, N. H., and Bradford, Vt. The town of Bradford taxed the real estate of the Piermont Bridge Co., described as lot and buildings, beginning in 1841. From 1877 to 1886 it taxed the land and buildings, and included a part of the bridge, under the following descriptions: "End of bridge with one abutment," "End of bridge abutment to

low-water mark," "End of bridge to low-water mark," and "End of bridge."

Next there was Hales Bridge, a bridge between Walpole, N. H., and Rockingham, Vt. We commonly know Rockingham as Bellows Falls, Vt. The town of Rockingham taxed a part of this bridge from 1862 to 1901, the description sometimes calling for "one-sixth," "one-seventh," or "one-eighth" of the bridge, and in 1872 and 1873 the description called for "bridge."

Next I refer to proprietors of Bedel's Bridge, a bridge between Haverhill, N. H., and Newberry, Vt. With reference to this bridge, Vermont taxed only adjacent lands and buildings from 1837 to 1877; and in 1877 and 1878 the description included "½ a. B. Bridge and etc."

Mr. President, it is my opinion that those bridges all became freed from toll and became property of the public, part of the ownership belonging on the Vermont side and part on the New Hampshire side, which varied exceedingly according to the service of the bridge. If the bridge was between a town on one side of the river which had a large population and a town on the other side having a small population, there was a variation in the proportion of the bridge that was supported by the respective towns. I believe, but I am not certain of this, having been unable to refresh my recollection about it, although I once knew about these affairs, that none of those bridges are now taxed on either side of the river in any of the towns.

In view of the fact that such taxation as occurred was against what might be regarded as private corporations, and that in no instance that I can recollect or discover was a tax levied against a bridge abutment even, or a tollhouse, of a bridge owned by a municipality or any other public body, I am inclined to the view that on both sides of the river, in both New Hampshire and Vermont, it was accepted as a town proposition or principle that neither side could tax the other sovereignty or any subdivision of the sovereignty with respect to a highway, or a part of a highway, as a bridge always is considered to be.

Although Vermont, if she saw fit to tax, would be especially benefited by the bill not being passed, yet I think my position ought to be according to the experience and habit of Vermont, and I, therefore, am of the opinion on the question of whether the Congress has the power to exempt, that Congress does have such power.

Of course, it is well recognized that unless Congress exercises the power of control over tolls on interstate bridges, States may exercise that power and regulate the tolls, but when Congress steps in and occupies that field its regulation is supreme and the State has to retire from the field. That has been held in a great many cases of ferries between States, notably on the river between New York and New Jersey.

Mr. MINTON. Mr. President, will the Senator yield?

Mr. AUSTIN. I yield.

Mr. MINTON. Suppose a ferry that was owned by the State of New York was operating into the State of New Jersey, does the Senator contend that the ferryboat could not be taxed by the State of New Jersey?

Mr. AUSTIN. No. If the State of New York, or the city of New York, or any other subdivision of the State, engaged in business, it would have to submit itself to the same laws that individual private capital is subjected to. That is the difference.

Mr. MINTON. Does the Senator think that a different rule would apply to the property of a municipality or a State which might be acting in its private capacity rather than in its governmental capacity, so far as taxation is concerned?

Mr. AUSTIN. Oh, yes; with respect to liability for negligence and all such matters.

Mr. MINTON. I am not talking about liability for negligence. Everyone knows that that difference exists. I am talking about the taxation, which is the exercise of sovereign power.

Mr. AUSTIN. Yes; I believe a different rule would apply. I believe that a State ought to be and is under the law free from taxation of its highways by any other State.

Mr. MINTON. Of course, its highways would not exist in another State.

Mr. AUSTIN. They do in the case of a bridge owned by the State. A bridge is a part of the highway, and if it extends by the consent of its vis-à-vis into the territory of the opposite State it still is a part of the highway of the State. For that reason I believe that Congress has the power to exempt from taxation, as proposed by the pending bill.

Mr. MINTON. That is an entirely different thing so long as it is exempting the State from taxation. If the rights of Congress were being invaded by the State of Indiana, we will say, or by any other State, or if the right of the Federal Government to tax or not to tax was being invaded by the State of Indiana, that would be one thing, but it is quite a different thing for Congress to say, despite the sovereign power of Indiana to tax, that it can exempt the property of Kentucky from that taxation.

Mr. AUSTIN. Evidently the Senator from Indiana and I disagree about that. I think there is a clear distinction between highways and other instrumentalities of government, and property employed by a State in the business of carrying passengers for hire.

The PRESIDING OFFICER (Mr. HERRING in the chair). The question is on the engrossment and third reading of the bill.

The bill (S. 252) was ordered to be engrossed for a third reading, read the third time, and passed.

PRESERVATION OF AMERICAN ANTIQUITIES

Mr. ANDREWS. Mr. President, yesterday I made a motion to reconsider the vote by which Senate bill 3890, being Calendar 1794, was passed. The vote was reconsidered. I now desire to withdraw my objection to the consideration of the bill.

The PRESIDING OFFICER. Is there objection to the consideration of the bill? The Chair hears none, and without objection the bill is passed.

EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER, as in executive session, laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

RETIREMENT OF JUSTICES OF COURTS OF HAWAII

Mr. ANDREWS. Mr. President, I ask unanimous consent for the present consideration of House bill 8700, being Calendar No. 1898. I have spoken about it to the chairman of the Committee on the Judiciary and also to a member of the committee, the Senator from Vermont [Mr. AUSTIN].

Mr. AUSTIN. I wish to ask the Senator from Florida if the bill as reported was amended by striking out the provision with respect to judges of the circuit courts?

Mr. ANDREWS. It was amended both in the title and the bill as the committee requested.

Mr. AUSTIN. I have no objection.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (H. R. 8700) relating to the retirement of the justices of the Supreme Court of the Territory of Hawaii, judges of the circuit courts of the Territory of Hawaii, and judges of the United States District Court for the Territory of Hawaii, which had been reported from the Committee on the Judiciary with amendments on page 1, line 4, after the name "Hawaii," to strike out the comma and "every judge of the circuit courts of the Territory of Hawaii"; in line 6, after the word "may", to insert "hereafter"; in line 8, after the words "judge of", to strike out "any" and insert "either"; in line 10, after the word "not", to insert "he"; and on page 2, line 12, after the words "service in", to strike out "any one or more" and to insert "either", so as to make the bill read:

Be it enacted, etc., That every justice of the Supreme Court of the Territory of Hawaii, and every judge of the United States District Court for the Territory of Hawaii may hereafter retire after

attaining the age of 70 years. If such justice or judge retires after having served as a justice or judge of either the aforementioned courts for a period or periods aggregating 10 years or more, whether continuously or not, he shall receive annually in equal monthly installments, during the remainder of his life, a sum equal to such proportion of the salary received by such justice or judge at the date of such retirement as the total of his aggregate years of service bears to the period of 16 years, the same to be paid by the United States in the same manner as the salaries of the aforesaid justices and judges: *Provided, however*, That in no event shall the sum received by any such justice or judge hereunder be in excess of the salary of such justice or judge at the date of such retirement.

SEC. 2. In computing the years of service under this act service in either of the aforesaid courts shall be included whether such service be continuous or not and whether rendered before or after the enactment hereof. The terms "retire" and "retirement" as used in this act shall mean and include retirement, resignation, failure of reappointment upon the expiration of the term of office of an incumbent or removal by the President of the United States upon the sole ground of mental or physical disability.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "An act relating to the retirement of the justices of the Supreme Court of the Territory of Hawaii and judges of the United States District Court for the Territory of Hawaii."

AUTHORIZATION TO SIGN INDEPENDENT OFFICES APPROPRIATION BILL

Mr. BARKLEY. Mr. President, I ask unanimous consent that the Vice President may be authorized to affix his signature to the independent offices appropriation bill during the recess of the Senate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and authority as requested is granted.

AUTHORIZATION FOR COMMITTEE ON EDUCATION AND LABOR TO SUBMIT REPORTS

Mr. BARKLEY. I ask unanimous consent that the Committee on Education and Labor may be authorized to submit any report it may have ready to submit during the recess of the Senate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

RECESS TO MONDAY

Mr. BARKLEY. I move that the Senate take a recess until 12 o'clock noon on Monday next.

The motion was agreed to; and (at 1 o'clock and 43 minutes p. m.) the Senate took a recess until Monday, May 23, 1938, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate May 19 (legislative day of April 20), 1938

SOCIAL SECURITY BOARD

Max William Stern, of California, to be Director of Informational Service in the Social Security Board.

APPOINTMENTS, BY TRANSFER, IN THE REGULAR ARMY

TO ADJUTANT GENERAL'S DEPARTMENT

Lt. Col. Warner William Carr, Infantry, with rank from October 1, 1937.

TO QUARTERMASTER CORPS

Maj. George Andrew Lockhart, Infantry, will rank from August 1, 1935.

Capt. Joseph Conrad Odell, Infantry, with rank from August 1, 1935.

PROMOTIONS IN THE REGULAR ARMY

Lt. Col. John Roy Douglas Matheson, Corps of Engineers, to be colonel from May 17, 1938.

Maj. William Gaston Simmons, Cavalry, to be lieutenant colonel from May 17, 1938.

Capt. Henry Thomas Kent, Infantry, to be major from May 17, 1938.

HOUSE OF REPRESENTATIVES

THURSDAY, MAY 19, 1938

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Our Father, we turn our prayer to the "mount of God," for it is stamped with a name that will outlive the mountain—"the Lord will provide." We praise Thee with grateful hearts, for in Thee is the secret of a calm and cheerful confidence. O Thou with whom there is no variableness, no weariness, no shadow of turning, give us Thy guidance. We pray that the warm glow of our sympathies may not fade, the arteries of our souls harden, nor the red blood of brotherhood cease to flow. May experience as well as precept teach us the need and the glory of the Golden Rule. When we have pleasure, may it be purified; when doubts, grant their solution; and when troubles have left their tracteries upon hearts and hearthstones, merciful Lord, grant release. O Thou who dost breathe upon the clouds and lift the shadows, may our country begin to round into the pathway of unshaded light. Let in the morning sun. We need the power of the Most High. In the name of Jesus. Amen.

The Journal of the proceedings of yesterday was read and approved.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Latta, one of his secretaries, who also informed the House that on the following dates the President approved and signed a joint resolution and bills of the House of the following titles:

On May 17, 1938:

H. J. Res. 599. Joint resolution to set apart public ground for the Smithsonian Gallery of Art, and for other purposes;

H. R. 1258. An act for the relief of E. G. Briseno and Hector Briseno, a minor;

H. R. 4018. An act for the relief of Orville Ferguson;

H. R. 5842. An act for the relief of John G. Edwards;

H. R. 5867. An act for the relief of Peter Wettern;

H. R. 6062. An act for the relief of Harry P. Russell, a minor;

H. R. 6708. An act for the relief of S. T. Roebuck;

H. R. 6780. An act for the relief of Mildred G. Yund;

H. R. 6885. An act for the relief of Ephriam J. Hicks;

H. R. 7521. An act for the relief of Joe F. Pedlichek;

H. R. 7796. An act for the relief of Frank Scofield;

H. R. 9218. An act to establish the composition of the United States Navy, to authorize the construction of certain naval vessels, and for other purposes;

H. R. 9226. An act to amend the act of March 9, 1928, authorizing appropriations to be made for the disposition of remains of military personnel and civilian employees of the Army, and for other purposes;

H. R. 9912. An act to convey to the University of Alaska a tract of land for use as the site of a fur farm experiment station;

H. R. 9942. An act to authorize the conveyance of the Mattapoisett (Ned Point) Lighthouse Reservation at Mattapoisett, Mass., to the town of Mattapoisett; and

H. R. 10216. An act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1939, and for other purposes.

On May 18, 1938:

H. R. 1099. An act for the relief of the New York & Baltimore Transportation Line, Inc.;

H. R. 6652. An act to provide for the administration and maintenance of the Natchez Trace Parkway, in the States of Mississippi, Alabama, and Tennessee, by the Secretary of the Interior, and for other purposes; and

H. R. 10316. An act to amend section 203 of the Merchant Marine Act, 1936, and for other purposes.